

AGENDA

REGULAR COUNCIL MEETING
TUESDAY
APRIL 1, 2014

COUNCIL CHAMBERS
211 WEST ASPEN AVENUE
4:00 P.M. AND 6:00 P.M.

4:00 P.M. MEETING

Individual Items on the 4:00 p.m. meeting agenda may be postponed to the 6:00 p.m. meeting.

1. CALL TO ORDER

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that, at this regular meeting, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion with the City's attorneys for legal advice on any item listed on the following agenda, pursuant to A.R.S. §38-431.03(A)(3).

2. ROLL CALL

NOTE: One or more Councilmembers may be in attendance telephonically or by other technological means.

MAYOR NABOURS
VICE MAYOR EVANS
COUNCILMEMBER BAROTZ
COUNCILMEMBER BREWSTER

COUNCILMEMBER ORAVITS
COUNCILMEMBER OVERTON
COUNCILMEMBER WOODSON

3. PLEDGE OF ALLEGIANCE AND MISSION STATEMENT

MISSION STATEMENT

The mission of the City of Flagstaff is to protect and enhance the quality of life of its citizens.

4. APPROVAL OF MINUTES FROM PREVIOUS MEETINGS

None

5. PUBLIC PARTICIPATION

Public Participation enables the public to address the Council about an item that is not on the agenda (or is listed under Possible Future Agenda Items). Comments relating to items that are on the agenda will be taken at the time that the item is discussed. If you wish to address the Council at tonight's meeting, please complete a comment card and submit it to the recording clerk as soon as possible. Your name will be called when it is your turn to speak. You may address the Council up to three times throughout the meeting, including comments made during Public Participation. Please limit your remarks to three minutes per item to allow everyone an opportunity to speak. At the discretion of the Chair, ten or more persons

present at the meeting and wishing to speak may appoint a representative who may have no more than fifteen minutes to speak.

6. PROCLAMATIONS AND RECOGNITIONS

None

7. APPOINTMENTS

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that the City Council may vote to go into executive session, which will not be open to the public, for the purpose of discussing or considering employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee, or employee of any public body...., pursuant to A.R.S. §38-431.03(A)(1).

8. LIQUOR LICENSE PUBLIC HEARINGS

- A. Consideration and Action on Liquor License Application:** Danny Thomas, "Porky's Pub", 2285 E. Butler Ave., Series 06 (bar- all spirituous liquor), Person and Location Transfer.

RECOMMENDED ACTION:

Hold public hearing.

The City Council has the option to:

- 1) Forward the application to the State with a recommendation for approval;
- 2) Forward the application to the State with no recommendation; or
- 3) Forward the application to the State with a recommendation for denial based on the testimony received at the public hearing and/or other factors.

9. CONSENT ITEMS

All matters under Consent Agenda are considered by the City Council to be routine and will be enacted by one motion approving the recommendations listed on the agenda. Unless otherwise indicated, expenditures approved by Council are budgeted items.

- A. Consideration and Approval of Projects:** Lake Mary - Walnut Creek Technical Advisory Committee (LM-WC TAC) project recommendations.

RECOMMENDED ACTION:

The LM-WC TAC asks for Council approval to fund two projects: 1) Not-to-exceed (NTE) \$15,000.00 for purchase of up to 12 flowtopgraphy stations to be installed within the Upper Lake Mary watershed, 2) NTE \$25,000.00 for the purchase and installation of flow & sediment monitoring equipment to be installed in Newman Canyon, followed by \$2,200 annually for 5 years to cover a share of the operating costs.

- B. Consideration and Approval of Contract:** Professional Services for Materials Testing. *(Approve contract to test materials during construction).*

RECOMMENDED ACTION:

- 1) Approve the contract with ATL, Inc. for a total estimated annual amount of \$172,940, which includes a \$10,000 contingency. The contract will be for an initial term of three (3) years with two (2), one-year renewal terms.
- 2) Authorize the City Manager to execute the necessary documents.

- C. **Consideration and Approval of Contract:** Western Bark Beetle Initiative (WBBI) grant from AZ State Forestry. *(State grant to treat for Bark Beetles).*

RECOMMENDED ACTION:

Approve the **WBBI** Grant Agreement with AZ State Forestry

- D. **Consideration and Approval of Contract:** Amendment Three to the Intergovernmental Agreement (IGA)/Joint Project Agreement (JPA) 11-097I between the City of Flagstaff (City) and the Arizona Department of Transportation (ADOT) for the FY2013 Highway Safety Improvement Program (HSIP), Beulah Bike Lanes.

RECOMMENDED ACTION:

Approve Amendment Three to the IGA/JPA 11-097I between the City and ADOT in the amount of \$175,000 of which the Grant Amount is \$165,025 (94.3%) with a City match of \$9,975 (5.7%) for a total construction cost in the amount of \$175,000.

10. **ROUTINE ITEMS**

- A. **Consideration and Approval of Contract:** Intergovernmental Agreement between the City of Flagstaff and Coconino County concerning the administration of funds of the Free Library District

RECOMMENDED ACTION:

Approve and renew Intergovernmental Agreement between the City of Flagstaff and Coconino County for the administration of funds of the Coconino County Free Library Tax District.

- B. **Consideration and Adoption of Resolution No. 2014-12 :** A resolution of the Mayor and Council of the City of Flagstaff, Arizona approving the City of Flagstaff Housing Authority's Annual Plan and authorizing its submission to the United States Department of Housing and Urban Development (HUD)

RECOMMENDED ACTION:

- 1) Read Resolution No. 2014-12 by title only
- 2) City Clerk reads Resolution No. 2014-12 by title only (if approved above)
- 3) Adopt Resolution No. 2014-12

- C. **Consideration of Ordinance No. 2014-08:** An Ordinance of the City Council of the City of Flagstaff, Arizona, amending Flagstaff City Code, Title 4, Building Regulations, by adding a new Chapter 4-10, Uniform Housing Code, 1997 Edition and Amendments *(Request to postpone action to a date uncertain)*

RECOMMENDED ACTION:

Staff requests City Council postpone Ordinance No. 2014-08 to a date uncertain to allow time to prepare the requested information.

- D. **Consideration and Approval of Grant Application:** Arizona Governor's Office of Highway Safety (GOHS) Federal Fiscal Year 2015 for Police Department Applications for DUI Task Force, and Youth Alcohol Prevention and Interdiction.

RECOMMENDED ACTION:

Approve the application(s) to the Arizona Governor's Office of Highway Safety (GOHS) for grant funds for the Police Department in the amount of \$45,240 for DUI Task Force activities with an additional \$11,459 for speed detection devices, \$44,160 for Youth Alcohol Prevention and Interdiction task force.

- E. **Consideration and Approval of an Intergovernmental Agreement:** Between the City of Flagstaff and Northern Arizona University (NAU) for financial contribution to the Innovation Mesa Business Accelerator Project.

RECOMMENDED ACTION:

Approve the Intergovernmental Agreement (IGA) with NAU for the Innovation Mesa Business Accelerator Project in the amount of \$1,100,000 for the purpose of funding the Design and Construction of the project facility.

RECESS

6:00 P.M. MEETING

RECONVENE

NOTICE OF OPTION TO RECESS INTO EXECUTIVE SESSION

Pursuant to A.R.S. §38-431.02, notice is hereby given to the members of the City Council and to the general public that, at this regular meeting, the City Council may vote to go into executive session, which will not be open to the public, for legal advice and discussion with the City's attorneys for legal advice on any item listed on the following agenda, pursuant to A.R.S. §38-431.03(A)(3).

11. **ROLL CALL**

NOTE: One or more Councilmembers may be in attendance telephonically or by other technological means.

MAYOR NABOURS

VICE MAYOR EVANS

COUNCILMEMBER BAROTZ

COUNCILMEMBER BREWSTER

COUNCILMEMBER ORAVITS

COUNCILMEMBER OVERTON

COUNCILMEMBER WOODSON

12. **PUBLIC PARTICIPATION**

13. **CARRY OVER ITEMS FROM THE 4:00 P.M. AGENDA**

14. **PUBLIC HEARING ITEMS**

- A. Public Hearing on proposed Public Safety development fees (impact fees).

RECOMMENDED ACTION:

- 1) Hold the public hearing.
- 2) Direct staff to prepare ordinance to adopt proposed fees for May hearings.

15. REGULAR AGENDA

- A. Consideration and Adoption of Resolution No. 2014-13:** A resolution on the Principles of Sound Water Management - Water Policies Chapter of the Utilities Integrated Master Plan. ***(Approval of Water Policy by Resolution)***

RECOMMENDED ACTION:

- 1) Read Resolution No. 2014-13 by title only
- 2) City Clerk reads Resolution No. 2014-13 by title only (if approved above)
- 3) Adopt Resolution No. 2014-13

- B. Consideration and Adoption of Ordinance No. 2014-07 and Resolution No. 2014-10:** Resolution No. 2014-10 Declaring the proposed amendments as a public record; and adoption of Ordinance No. 2014-07, Adopting Amendments to that certain document entitled "Division 8-03-002, Sidewalk Cafes, Sidewalk Vending Carts and Other Permitted Encroachments" ***(An ordinance deleting North Downtown Business District Encroachment Policy, and replacing it in its entirety with Sidewalk Cafes, Sidewalk Vending Carts, and Other Permitted Encroachments)***

RECOMMENDED ACTION:

- 1) Adopt Resolution No. 2014-10
- 2) Read Ordinance No. 2014-07 for the final time by title only
- 3) City Clerk reads Ordinance No. 2014-07 by title only (if approved above)
- 4) Adopt Ordinance No. 2014-07.

- C. Consideration and Approval of Lease of City-Owned Property:** Ground Lease Agreement for the Development of Affordable Housing: Providing site control of City owned land located at 300 South Verde for Habitat for Humanity of Northern Arizona to support construction of a home for inclusion in the Community Land Trust Program. ***(Permission for Habitat for Humanity of Northern Arizona to build a permanently affordable home on City land)***

RECOMMENDED ACTION:

Approve the Ground Lease Agreement with Habitat for Humanity of Northern Arizona for the construction of one single-family home to be sold to a qualified low-income household and included in the Community Land Trust Program.

- D. Consideration and Approval of Contract:** Consultant Agreement; Utility Rate and Capacity Fee Study ***(Approval of the Agreement will allow Willdan Financial Services, Inc. to prepare a Utility Rate and Capacity Fee Study for the City of Flagstaff)***

RECOMMENDED ACTION:

- 1) Approve the Agreement with Willdan Financial Services, Inc. for the amount of \$114,380
- 2) Authorize the City Manager to execute the necessary documents
- 3) Authorize change order authority for the City Manager for the amount of \$11,438 (10%) to cover the expense of additional items or other unanticipated work

- E. **Consideration of Ordinance No. 2014-09**: An ordinance prohibiting aggressive solicitation.

RECOMMENDED ACTION:

At the meeting of April 1, 2014

- 1) Read Ordinance No. 2014-09 by title only for the first time
- 2) City Clerk reads Ordinance No. 2014-09 by title only (if approved above)

At the meeting of April 15, 2014

- 3) Read Ordinance No. 2014-09 by title only for the final time
- 4) City Clerk reads Ordinance No. 2014-09 by title only (if approved above)
- 5) Adopt Ordinance No. 2014-09

16. **DISCUSSION ITEMS**

- A. **Road Repair and Street Safety Initiative Update**

RECOMMENDED ACTION:

No Recommended Action - Discussion Only

17. **POSSIBLE FUTURE AGENDA ITEMS**

Verbal comments from the public on any item under this section must be given during Public Participation near the beginning of the meeting. Written comments may be submitted to the City Clerk. After discussion and upon agreement of three members of the Council, an item will be moved to a regularly-scheduled Council meeting.

18. **INFORMATIONAL ITEMS AND REPORTS FROM COUNCIL AND STAFF, REQUESTS FOR FUTURE AGENDA ITEMS**

19. **ADJOURNMENT**

CERTIFICATE OF POSTING OF NOTICE

The undersigned hereby certifies that a copy of the foregoing notice was duly posted at Flagstaff City Hall on _____, at _____ a.m./p.m. in accordance with the statement filed by the City Council with the City Clerk.

Dated this _____ day of _____, 2014.

Elizabeth A. Burke, MMC, City Clerk

**CITY OF FLAGSTAFF
STAFF SUMMARY REPORT**

To: The Honorable Mayor and Council
From: Stacy Saltzburg, Deputy City Clerk
Date: 03/24/2014
Meeting Date: 04/01/2014



TITLE:

Consideration and Action on Liquor License Application: Danny Thomas, "Porky's Pub", 2285 E. Butler Ave., Series 06 (bar- all spirituous liquor), Person and Location Transfer.

RECOMMENDED ACTION:

Hold public hearing.

The City Council has the option to:

- 1) Forward the application to the State with a recommendation for approval;
- 2) Forward the application to the State with no recommendation; or
- 3) Forward the application to the State with a recommendation for denial based on the testimony received at the public hearing and/or other factors.

Policy Decision or Reason for Action:

Series 06 (bar- all spirituous liquor) licenses are obtained through the person and/or location transfer of an existing license from another business. The transfer is from Diana Mercer for Empire House Motel located at 100 S. Lake Powell Blvd., Page, Arizona to Danny Thomas.

Financial Impact:

There is no budgetary impact to the City of Flagstaff as this is a recommendation to the State.

Connection to Council Goal:

Effective governance - regulatory action.

Has There Been Previous Council Decision on This:

Not applicable.

Options and Alternatives:

- 1) Table the item if additional information or time is needed.
- 2) Make no recommendation.
- 3) Forward the application to the State with a recommendation for approval.
- 4) Forward the application to the State with a recommendation for denial, stating the reasons for such recommendation.

Background/History:

An application for a person and location transfer Series 06 liquor license was received from Danny Thomas for Porky's Pub at 2285 E. Butler Ave. The transfer is from the Diana Mercer for Empire House Motel located at 100 S. Lake Powell Blvd., Page, Arizona to Danny Thomas.

A background investigation performed by Sgt. Matt Wright of the Flagstaff Police Department resulted in a recommendation for approval.

A background investigation performed by Tom Boughner, Code Compliance Manager, resulted in no active code violations being reported.

Sales tax and licensing information was reviewed by Ranbir Cheema, Tax, Licensing & Revenue Manager, who stated that the business is in compliance with the tax and licensing requirements of the City.

Key Considerations:

Because the application is for a person and location transfer, consideration may be given to the applicant's personal qualifications as well as the location of the premises.

A Series 06 (bar - all spirituous liquor) allows a bar retailer to sell and serve spirituous liquors, primarily by individual portions, to be consumed on the premises and in the original container for consumption on or off the premises.

The deadline for issuing a recommendation on this application is April 15, 2014.

Community Benefits and Considerations:

This business will contribute to the tax base of the community. We are not aware of any other relevant considerations.

Community Involvement:

The application was properly posted on February 26, 2014. No written protests have been received to date.

Expanded Options and Alternatives:

- 1) Table the item if additional information or time is needed.
- 2) Make no recommendation.
- 3) Forward the application to the State with a recommendation for approval.
- 4) Forward the application to the State with a recommendation for denial, stating the reasons for such recommendation.

Attachments: [Porky's Pub - Letter to Applicant](#)
 [Hearing Procedures](#)
 [Series 06 Description](#)
 [Porky's Pub - Section 13](#)
 [Porky's Pub - PD Memo](#)
 [Porky's Pub - Code Memo](#)
 [Porky's Pub - Tax Memo](#)

OFFICE OF THE CITY CLERK

March 20, 2014

Porky's Pub
Attn: Danny Thomas
P.O. Box 152
Flagstaff, AZ 86004

Dear Mr. Thomas:

Your application for a Series 6 person and location transfer liquor license for Porky's Pub at 2285 E. Butler Ave., was posted on February 26, 2014. The City Council will consider the application at a public hearing during their regularly scheduled City Council Meeting on **Tuesday, April 1, 2014 which begins at 4:00 p.m.**

It is important that you or your representative attend this Council Meeting and be prepared to answer any questions that the City Council may have. Failure to be available for questions could result in a recommendation for denial of your application. We suggest that you contact your legal counsel or the Department of Liquor Licenses and Control at 602-542-5141 to determine the criteria for your license. To help you understand how the public hearing process will be conducted, we are enclosing a copy of the City's liquor license application hearing procedures.

The twenty-day posting period for your liquor license application expired on March 18, 2014 and the application may be removed from the premises at this time.

If you have any questions, please feel free to call me at 928-213-2077.

Sincerely,

Stacy Saltzburg
Deputy City Clerk

Enclosure



City of Flagstaff

Liquor License Application Hearing Procedures

1. When the matter is reached at the Council meeting, the presiding officer will accept a motion to open the public hearing on the item.
2. The presiding officer will request that the Applicant come forward to address the Council regarding the application in a presentation not exceeding ten (10) minutes. Council may question the Applicant regarding the testimony or other evidence provided by the Applicant.
3. The presiding officer will then ask whether City staff have information to present to the Council regarding the application. Staff should come forward at this point and present information to the Council in a presentation not exceeding ten (10) minutes. Council may question City staff regarding the testimony or other evidence provided by City staff.
4. Other parties, if any, may then testify, limited to three (3) minutes per person. Council may question these parties regarding the testimony they present to the Council.
5. The Applicant may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of the Applicant.
6. City staff may make a concise closing statement to the Council, limited to five (5) minutes. During this statement, Council may ask additional questions of City Staff.
7. By motion, Council will then close the public hearing.
8. By motion, the Council will then vote to forward the application to the State with a recommendation of approval, disapproval, or shall vote to forward with no recommendation.

License Types: Series 06 Bar (all spirituous liquor)

Transferable (From person to person and/or location to location within the same county only)

On & off-sale retail privileges

Note: Terms in **BOLD CAPITALS** are defined in the [glossary](#).

PURPOSE:

Allows a bar retailer to sell and serve spirituous liquors, primarily by individual portions, to be consumed on the premises and in the original container for consumption on or off the premises.

ADDITIONAL RIGHTS AND RESPONSIBILITIES:

A retailer with off-sale privileges may deliver spirituous liquor off of the licensed premises in connection with a retail sale. Payment must be made no later than the time of **DELIVERY**. The retailer must complete a Department approved "Record of Delivery" form for each spirituous liquor retail delivery.

On any original applications, new managers and/or the person responsible for the day-to-day operations must attend a basic and management training class.

A licensee acting as a **RETAIL AGENT**, authorized to purchase and accept delivery of spirituous liquor by other licensees, must receive a certificate of registration from the Department.

A **PREGNANCY WARNING SIGN** for pregnant women consuming spirituous liquor must be posted within twenty (20) feet of the cash register or behind the bar.

A log must be kept by the licensee of all persons employed at the premises including each employee's name, date and place of birth, address and responsibilities.

Off-sale ("To Go") package sales of spirituous liquor can be made on the bar premises as long as the area of off-sale operation does not utilize a separate entrance and exit from the ones provided for the bar.

A hotel or motel with a Series 06 license may sell spirituous liquor in sealed containers in individual portions to its registered guests at any time by means of a minibar located in the guest rooms of registered guests. The registered guest must be at least twenty-one (21) years of age. Access to the minibar is by a key or magnetic card device and not furnished to a guest between the hours of 2:00 a.m. and 6:00 a.m. Monday through Saturday and 2:00 a.m. and 10:00 a.m. on Sundays.

Bar, beer and wine bar, and restaurant licensees must pay an annual **SURCHARGE** of \$20.00. The money collected from these licensees will be used by the Department for an auditor to review compliance by restaurants with the restaurant licensing provisions of ARS 4-205.02.

SECTION 12 Location to Location Transfer: (Bars and Liquor Stores ONLY)

APPLICANTS CANNOT OPERATE UNDER A LOCATION TRANSFER UNTIL IT IS APPROVED BY THE STATE

1. Current Business: Name ~~WOODEN HOST MOTEL~~ ^{IM} ~~aka~~ EMPIRE HOUSE MOTEL
(Exactly as it appears on license) Address 160 S. LAKE AOWELL BLVD PAGE, AZ 86040
2. New Business: Name Porky's Pub
(Physical Street Location) Address 2285 E Butler Avenue Flagstaff, Az 86004
3. License Type: Bar #6 License Number: 06030011
4. If more than one license to be transferred: License Type: _____ License Number: _____
5. What date do you plan to move? N/A UPON APPROVAL What date do you plan to open? MAY 10th, 2014

SECTION 13 Questions for all in-state applicants excluding those applying for government, hotel/motel, and restaurant licenses (series 5, 11, and 12):

A.R.S. § 4-207 (A) and (B) state that no retailer's license shall be issued for any premises which are at the time the license application is received by the director, within three hundred (300) horizontal feet of a church, within three hundred (300) horizontal feet of a public or private school building with kindergarten programs or grades one (1) through (12) or within three hundred (300) horizontal feet of a fenced recreational area adjacent to such school building. The above paragraph DOES NOT apply to:

- a) Restaurant license (§ 4-205.02) c) Government license (§ 4-205.03)
b) Hotel/motel license (§ 4-205.01) d) Fenced playing area of a golf course (§ 4-207 (B)(5))

1. Distance to nearest school: 4500+ ft. Name of school Knoles Elementary
Address 4005 E. Butler Avenue
City, State, Zip _____
2. Distance to nearest church: 2500+ ft. Name of church San Francisco de Asis
Address 1600 East Route 66 Flagstaff, Arizona 86001
City, State, Zip _____
3. I am the: ☒ Lessee ☐ Sublessee ☐ Owner ☐ Purchaser (of premises)
4. If the premises is leased give lessors: Name Jai Shree Hanuman LLC (Mitul Patel)
Address 2285 E. Butler Avenue Flagstaff Az 86004
City, State, Zip _____
- 4a. Monthly rental/lease rate \$ 7,500 What is the remaining length of the lease 9 yrs. 0 mos.
- 4b. What is the penalty if the lease is not fulfilled? \$ None or other _____
(give details / attach additional sheet if necessary)
5. What is the total **business** indebtedness for this license/location excluding the lease? \$ 25,000
Please list lenders you owe money to.

Last	First	Middle	Amount Owed	Mailing Address	City	State	Zip
COE	JONAL	MATTHEW	\$ 75,000	4614 e devonshire	phx	AZ	85018

(ATTACH ADDITIONAL SHEET IF NECESSARY)

6. What type of business will this license be used for (be specific)? BAR / RESTAURANT

SECTION 13 - continued

7. Has a license or a transfer license for the premises on this application been denied by the state within the past one (1) year?
☐ YES ☒ NO If yes, attach explanation.
8. Does any spirituous liquor manufacturer, wholesaler, or employee have any interest in your business? ☐ YES ☒ NO
9. Is the premises currently licensed with a liquor license? ☒ YES ☐ NO If yes, give license number and licensee's name:

License # 12033279 (exactly as it appears on license) Name Perky's PUB ~~DANNY RAY THOMAS~~ D.D. MINESH M. PATEL

SECTION 14 Restaurant or hotel/motel license applicants:

1. Is there an existing restaurant or hotel/motel liquor license at the proposed location? ☐ YES ☐ NO
If yes, give the name of licensee, Agent or a company name: _____ and license #: _____
Last First Middle
2. If the answer to Question 1 is YES, you may qualify for an Interim Permit to operate while your application is pending; consult A.R.S. § 4-203.01; and complete SECTION 5 of this application.
3. All restaurant and hotel/motel applicants must complete a Restaurant Operation Plan (Form LIC0114) provided by the Department of Liquor Licenses and Control.
4. As stated in A.R.S. § 4-205.02.G.2, a restaurant is an establishment which derives at least 40 percent of its gross revenue from the sale of food. Gross revenue is the revenue derived from all sales of food and spirituous liquor on the licensed premises. By applying for this ☐ hotel/motel ☐ restaurant license, I certify that I understand that I must maintain a minimum of 40 percent food sales based on these definitions and have included the Restaurant Hotel/Motel Records Required for Audit (form LIC 1013) with this application.

applicant's signature

As stated in A.R.S. § 4-205.02 (B), I understand it is my responsibility to contact the Department of Liquor Licenses and Control to schedule an inspection when all tables and chairs are on site, kitchen equipment, and, if applicable, patio barriers are in place on the licensed premises. With the exception of the patio barriers, these items are not required to be properly installed for this inspection. Failure to schedule an inspection will delay issuance of the license. If you are not ready for your inspection 90 days after filing your application, please request an extension in writing, specify why the extension is necessary, and the new inspection date you are requesting. To schedule your site inspection visit www.azliquor.gov and click on the "Information" tab.

applicants initials

SECTION 15 Diagram of Premises: (Blueprints not accepted, diagram must be on this form)

1. Check ALL boxes that apply to your business:
- | | | |
|---|--|--|
| <input checked="" type="checkbox"/> Entrances/Exits | <input checked="" type="checkbox"/> Liquor storage areas | Patio: <input type="checkbox"/> Contiguous |
| <input type="checkbox"/> Service windows | <input type="checkbox"/> Drive-in windows | <input type="checkbox"/> Non Contiguous |
2. Is your licensed premises currently closed due to construction, renovation, or redesign? ☐ YES ☒ NO
If yes, what is your estimated opening date? _____ month/day/year
3. Restaurants and hotel/motel applicants are required to draw a detailed floor plan of the kitchen and dining areas including the locations of all kitchen equipment and dining furniture. Diagram paper is provided on page 7.
4. The diagram (a detailed floor plan) you provide is required to disclose only the area(s) where spiritous liquor is to be sold, served, consumed, dispensed, possessed, or stored on the premises unless it is a restaurant (see #3 above).
5. Provide the square footage or outside dimensions of the licensed premises. Please do not include non-licensed premises, such as parking lots, living quarters, etc.

As stated in A.R.S. § 4-207.01(B), I understand it is my responsibility to notify the Department of Liquor Licenses and Control when there are changes to boundaries, entrances, exits, added or deleted doors, windows or service windows, or increase or decrease to the square footage after submitting this initial drawing.

D.D.
applicants initials

MEMORANDUM

Memo # 14-025-01

TO: Chief Kevin Treadway

FROM: Sgt. Matt Wright

DATE: March 17, 2014

REF Series 6 Liquor License Person and Location Transfer for “Porky’s”

On February 20, 2014, I initiated an investigation into an application for a series 06 (bar) liquor license person to person and location transfer. The liquor license application has been filed by Danny Thomas, the listed agent on behalf of, Stefanie Kristin Patel and Minesh Patel owners of Porky’s Pub. Danny is the listed agent for administrative purposes only and has no responsibility for the day to day operations of the business. The listed manager on the application is Eric Busam. Prior to completing the background investigation I received an amendment to this application. The amendment removed Minesh Patel from the LLC resulting in Stefanie Patel being the sole owner on the application.

Porky’s Pub is located 2285 E. Butler Ave in Flagstaff. The bar/restaurant location is currently operating as it has for some time under a series 12 restaurant license. The series 12 license will become inactive upon approval of the series 6 license. The license number being applied for is 06030011 a full bar license.

I conducted a query through local systems and public access on Danny Thomas, Stefanie Patel and Eric Busam. No derogatory records were located for Danny Thomas or Stefanie Patel. Eric Busam was found to have one arrest of which he self-reported. The arrest was for aggravated harassment of which he plead guilty to. Eric completed his court ordered probation resulting in the charge being reduced to a misdemeanor. No liquor violations have been recorded by the Department of Liquor License and Control at Porky’s.

In speaking with Danny Thomas I confirmed Stefanie Patel had purchased the series 6 license from Diana Caruthers Mercer the owner of the Empire House Motel located at 100 S. Lake Powell Blvd in Page, Arizona. Stefanie and Eric did provide proof they have completed the mandatory liquor law training courses. Stefanie indicated she had no plans to change her business practices stating the restaurant would continue to operate. The purchase of the series 6 license allows Stefanie to operate as a full bar. The series 6 license alleviates the need for Stefanie from having to maintain at least 40 percent of her gross profit be from the sale of food as dictated under a series 12 (restaurant license).

I confirmed the bar is outside of 300 feet from any school or church. As a result of the investigation, I can find no reason to oppose the series 6 application for person and location transfer. Recommendation to council would be for approval.




Planning and Development Services Memorandum


March 18, 2014

TO: Stacy Saltzburg, Deputy City Clerk

THROUGH: Roger E. Eastman, AICP, Comprehensive Planning and Code Administrator

FROM: Tom Boughner, Code Compliance Mgr. 

RE: Application for Liquor License #06030011
2285 East Butler Avenue, Flagstaff, Arizona 86004
Assessor's Parcel Number 106-04-004W
Danny Thomas on behalf of Porky's Pub



This application is a request for a Series #6 (Bar) Transfer, Person to Person, from Danny Thomas on behalf of Porky's Pub, located in the Highway Commercial zoning district. This district allows for bars.

There are no active Zoning Code violations associated with Danny Thomas or Porky's Pub at this time.

This liquor license is recommended for approval.

Memo

To: Stacy Saltzberg, Deputy City Clerk

From: Ranbir Cheema - Tax, Licensing & Revenue Manager

Date: March 11, 2014

Re: Series 06 Liquor License – Person and Location Transfer – Porky's Pub

JJJ R & B LLC DBA Porky's Pub is licensed with the City Sales Tax Section for its location at 2285 E Butler Avenue. They are current in tax returns filing and tax payments. Currently, they are in good standing with the Sales Tax Section of the City.

/liquor licenses/Porky's Pub.doc

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Erin Young, Water Resources Manager
Date: 03/24/2014
Meeting Date: 04/01/2014



TITLE:

Consideration and Approval of Projects: Lake Mary - Walnut Creek Technical Advisory Committee (LM-WC TAC) project recommendations.

RECOMMENDED ACTION:

The LM-WC TAC asks for Council approval to fund two projects: 1) Not-to-exceed (NTE) \$15,000.00 for purchase of up to 12 flowtography stations to be installed within the Upper Lake Mary watershed, 2) NTE \$25,000.00 for the purchase and installation of flow & sediment monitoring equipment to be installed in Newman Canyon, followed by \$2,200 annually for 5 years to cover a share of the operating costs.

Policy Decision or Reason for Action:

Council approval is required before funds can be dispersed from LM-WC TAC's account, as per the attached Memorandum of Understanding dated 01/13/13.

Subsidiary Decision Points: none

Financial Impact:

This Council action will authorize expenditure up to but NTE \$51,000 from a restricted fund with the National Park Foundation (current balance is \$127,000).

Connection to Council Goal:

5. Retain, expand, and diversify economic base; 6. Complete Water Policy; and 11. Effective governance.

Has There Been Previous Council Decision on This:

Yes, Council: executed the Stipulation on 12/10/01; approved the MOU (Agreement Number G747003001) on 08/06/03; approved the Charter to the MOU on 06/25/05, and; renewed the MOU and the Charter on 01/13/13.

Options and Alternatives:

1. Approve projects recommended by LM-WC TAC, and allow purchase of specified equipment.
2. Ask LM-WC TAC to modify one or both of the projects for Water Commission's recommendation and to Council for approval.
3. Ask LM-WC TAC to come forward with different projects to the Water Commission for recommendation and to Council for approval.

Background/History:

In 2001 a Stipulation (Civil No. 6417) was signed by the City of Flagstaff and the United States on behalf of the National Park Service (NPS) Flagstaff Area National Monuments and the Forest Service (USFS) Coconino National Forest recognizing & confirming the water rights of each Party within the Walnut Creek Watershed. It was agreed that either Party would not object to, dispute, or challenge these rights in the Little Colorado River Adjudication. In this Stipulation the parties agreed to cooperate in good faith to meet the objectives identified in the Stipulation. As part of the Stipulation, the City made a one-time contribution of \$100,000 (now \$127,000 with interest) to a trust account that may be used to fund studies to accomplish objectives to identify best management practices and to evaluate methods that may increase the likelihood of flood flows and improve the inner-canyon environment in Walnut Canyon National Monuments, as defined in the Stipulation. A Memorandum of Understanding (MOU) to cooperate in the establishment of a Technical Advisory Committee (TAC) was signed by the Parties on September 2, 2003 with a 10-year term. That MOU was revised by the TAC and signed by Mayor Nabours on January 22, 2013.

Key Considerations:

The two projects that the LM-WC TAC propose to fund will provide fundamental information to a vast number of stakeholders with interests in the Upper Lake Mary watershed. The two projects are among the first efforts to collect baseline information related to the watershed's response to climate and forest treatments. Utilities and Forest Managers seek flow volume and sediment information to answer essential water quantity and quality questions, ranging across a spectrum of situations, from catastrophic climate or fire events, to forest treatment strategies. This initial funding effort by the LM-WC TAC to purchase equipment is triggering a number of agency contributions, including leverage in time, research and funding. These organizations include Flagstaff Watershed Protection Project (FWPP), NPS, USFS, Northern Arizona University (NAU), Four Forests Restoration Initiative (4FRI), Salt River Project (SRP) and City of Flagstaff Utilities Division.

Upper Lake Mary serves as an important water source for the City of Flagstaff, and has therefore drawn much attention by foresters and hydrologists regarding the watershed's risk and vulnerability to catastrophic fires and climate change. The LM-WC TAC is proposing to fund the installation and equipment for the combination rainfall/sediment/streamflow gauge in Newman Canyon, the largest tributary of the lake, in order to better monitor and understand the volume, timing and quality of surface water recharge into the lake from the surrounding forested areas. The proposed gauge will be installed by the USGS, with annual operating costs funded under cooperation with the City Utilities Division, LM-WC TAC and FWPP. The gauge will collect rainfall and stream flow data in real-time (as it occurs) and store it in a database for future analysis. These data will also be available on the USGS website within minutes of occurring, which will allow water managers to know when and at what level the wash is flowing and therefore, when water quality and sediment sampling from this intermittent/ephemeral wash may be possible. The data may also be useful in evaluating change in water quality and water quantity that result from forest thinning projects that will be occurring within the watershed.

Additionally, the LM-WC TAC proposes to fund flowtopography equipment that will collect baseline (pre-treatment) flow data at 12 locations within the Upper Lake Mary watershed. Flowtopography was developed by SRP as a simple and low-cost method for collecting time-lapse photos using a wildlife camera and storage device, of the level of water flowing against a graduated stake in the wash. Water levels can be converted to a flow rate (such as cubic feet per second) using an equation developed from surveying the cross-sectional area of the wash at that particular location. Six of the locations are within paired watersheds of the 4FRI treatment areas; 4 locations are within the proposed FWPP treatment areas of Mormon Mountain; 1 location is within the Hoxworth Spring watershed; 1 location is at the USGS flow and sediment monitoring site in Newman Canyon. Pre-treatment information is essential to establish baseline conditions prior to FWPP and 4FRI treatments. This equipment is planned to be installed and monitored by a combination of NAU, SRP, FWPP, USFS and the City Utilities Division.

Both projects recommended by the LM-WC TAC support essential data collection efforts required to

document the effectiveness of the planned FWPP and 4FRI forest treatments for the Upper Lake Mary watershed, which, based on the results of similar projects as demonstrated by researchers with NAU, should increase flood flows and/or frequency into Upper Lake Mary. Flow data collected by these two projects will be very useful when deciding which treatments to maintain and fund by the watershed protection fund; those that demonstrate increased flood flow and/or frequency within the Upper Lake Mary watershed.

Expanded Financial Considerations:

The costs for the equipment and installation of the Newman Canyon gauge will be split 60:40 (LM-WC TAC not-to-exceed \$25,000/USGS \$14,350.) The annual operating costs for monitoring the equipment will be split 50:50 (LM-WC TAC, FWPP, Utilities Division/USGS.) Utilities has identified \$5,000 from account number 201-08-301-1014-0-4314 (Utilities Water Production account for Stationary Machinery & Equipment) to fund the first year of its share of the annual operating cost, and will budget on-going funding starting FY2016. The FWPP Monitoring Plan, scheduled to be completed soon, will ask Council to consider approval of \$5,000 annually, for upwards of 10 years, as its share of the USGS annual operating costs. The LM-WC TAC has agreed to fund 5 years of annual operating costs at \$2,200 per year.

Community Benefits and Considerations:

On January 9, 2014 the Water Commission unanimously approved the projects to be brought forward for Council's consideration and approval. Further, the intent of the Stipulation is to increase flood flows in Walnut Creek by improving the surface water supply. More runoff into Upper Lake Mary would not only benefit our municipal surface water supply, but increases the chance for water to flow over the dam and through the Walnut Canyon National Monument.

Additionally, these projects will support community goals of FWPP, which concern water quality and quantity in Upper Lake Mary, and reducing the risk of catastrophic fire in the watershed.

Community Involvement:

Inform
Consult
Involve
Collaborate

Attachments: Lake Mary - Walnut Canyon MOU
Flowtopography Proposal
USGS Proposal

MEMORANDUM OF UNDERSTANDING**between****CITY OF FLAGSTAFF, ARIZONA****USDA-FOREST SERVICE - COCONINO NATIONAL FOREST****NATIONAL PARK SERVICE - FLAGSTAFF AREA NATIONAL MONUMENTS****for****MANAGEMENT OF THE LAKE MARY - WALNUT CREEK WATERSHED,****INCLUDING UPPER AND LOWER LAKE MARY**

WHEREAS, The City of Flagstaff ("City"), Arizona, and the United States on Behalf of the Forest Service – Coconino National Forest ("U.S. Forest Service") and the National Park Service ("NPS") – Flagstaff Area National Monuments, (collectively, the "Parties") entered a Stipulation, finalized on December 10, 2001 and approved July 16, 2002 (Attachment A) as part of the General Adjudication of All Rights to Use Water in the Little Colorado River System and Source (Civil No. 6417), (hereinafter, the "Stipulation"), and

WHEREAS, the Parties agreed in the Stipulation to identify best management practices consistent with municipal values and Amendment 17 (Flagstaff/Lake Mary Ecosystem Assessment) to the current Coconino National Forest Land and Resource Management Plan, and implement such practices where appropriate, and

WHEREAS, the Parties agreed in the Stipulation to evaluate methods that may increase the likelihood of flood flows and improve the inner-canyon environment in Walnut Canyon National Monument, and

WHEREAS, the Parties agreed that nothing contained in the Stipulation is construed to obligate or require the City to increase flood flows and improve the inner-canyon environment in Walnut Canyon National Monument, and

WHEREAS, the Parties agreed to cooperate in good faith regarding the objectives identified in the Stipulation, and

WHEREAS, the Parties agree this Memorandum of Understanding supersedes the previous Memorandum of Understanding, fully executed on September 2, 2003;

NOW THEREFORE, the Parties desire to cooperate as follows:

ARTICLE I: Purpose of the Agreement

This Memorandum of Understanding (MOU) provides the framework between the Parties to cooperate in continuing the function of the Technical Advisory Committee (TAC) established as

MEMORANDUM OF UNDERSTANDING

City of Flagstaff Agreement #
US Forest Service Agreement # 13-MU-11030420-009
USDI NPS Flagstaff Area National Monument Agreement #FLAG13MU01

per MOU signed on September 2, 2003. The TAC is charged with developing and evaluating study proposals for the Lake Mary - Walnut Creek Watershed area, as defined under the Stipulation (see attached map at the end of this document). Such proposals should be designed to evaluate and implement, where appropriate, best management practices, reservoir modifications, and/or operational criteria to address the objectives addressed in paragraphs D3 and D4 of the Stipulation, consistent with municipal values and the management direction in the current Coconino National Forest Land and Resource Management Plan, as amended and until superseded by the Revised Coconino National Forest Land and Resource Management Plan, and the NPS General Management Plan for Walnut Canyon National Monument. Proposals will be recommended by the TAC, and may be implemented when approved by the Mayor and City Council of the City of Flagstaff, Forest Supervisor of the Coconino National Forest, and Superintendent of the Flagstaff Area National Monuments (NPS).

ARTICLE II: Statement of Work***The Parties agree to cooperate by:***

- 1) Meet twice per year, or more often as needed, to further the objectives and actions identified in Article I.
- 2) Provide one representative (and one alternate) with education and/or experience in biology, ecology, hydrology, watershed management, utilities management, or civil engineering to serve on the TAC. Each representative will be designated in writing by the Party's appropriate signatory to this agreement.
- 3) Organize and conduct TAC business according to guidelines in the attached Charter. The Charter shall be effective when approved by the City Council and signed by the Mayor of the City of Flagstaff, the Forest Supervisor for Coconino National Forest, and the Superintendent of the Flagstaff Area National Monuments.
- 4) Share information or technical data regarding past, present, or future hydrology, reservoir operations, ecology, biota, environment, and land use within the Lake Mary - Walnut Creek Watershed.
- 5) Permit access by representatives of the other Parties to lands controlled within the Lake Mary - Walnut Creek Watershed by each Party provided prior reasonable notification is given.

ARTICLE III: Term of Agreement

This MOU shall become effective on the date of the last signature, and shall continue in full force and effect for 10 years. The MOU may be amended or modified upon written request of any of the Parties, and subsequent written concurrence of the others. Any of the Parties may terminate their involvement in this MOU at any time with a 60-day written notice to the others.

ARTICLE IV. Key Officials and Contacts

City of Flagstaff:

Mayor
City of Flagstaff
211 W. Aspen
Flagstaff, Arizona 86001
(928)213-2015

Utilities Director
City of Flagstaff
211 W. Aspen
Flagstaff, Arizona 86001
(928)213-2400

U.S. Forest Service:

Forest Supervisor
Coconino National Forest
1824 S Thompson Street
Flagstaff, Arizona 86001
(928)527-3600

Watershed Program Manager
Coconino National Forest
1824 S Thompson Street
Flagstaff, Arizona 86001
(928)527-3451

National Park Service:

Superintendent
Flagstaff Area National Monuments
6400 N. Highway 89
Flagstaff, Arizona 86004
(928)526-1157

Chief, Division of Resources Management
Flagstaff Area National Monuments
6400 N. Highway 89
Flagstaff, Arizona 86004
(928)526-1157

ARTICLE V. Mutually Agreed-Upon Clauses

- 1) The Parties and their respective agencies and offices will handle their own activities and utilize their own resources, including expenditure of their own funds, in pursuing the objectives of this MOU. Each party will carry out its separate activities in a coordinated and mutually beneficial manner.
- 2) The Parties agree that no activity under this agreement shall negate nor supersede any respective jurisdictional, regulatory, or permitting requirements.

MEMORANDUM OF UNDERSTANDING

City of Flagstaff Agreement #
US Forest Service Agreement # 13-MU-11030420-009
USDI NPS Flagstaff Area National Monument Agreement #FLAG13MU01

- 3) Nothing in this MOU shall obligate the City of Flagstaff, the NPS, or the U.S. Forest Service to seek, transfer, or expend any funds or other resources other than those set forth in the Stipulation.
- 4) Specific work projects or activities that involve the transfer of funds, services, or property among the various agencies and offices of the Parties require execution of separate agreements and is contingent upon the availability of funds. Such activities must be independently authorized by appropriate statutory authority. This MOU does not provide such authority. Negotiation, execution, and administration of such separate agreements must comply with all applicable statutes and regulation.
- 5) This MOU is not intended to, and does not create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against any other party to this agreement, its agencies, its officers, or any person.
- 6) Any information furnished to the Parties under this instrument is subject to the Freedom of Information Act (5 U.S.C. 552) and applicable State law.
- 7) Nothing in this MOU restricts the Parties from participating in similar activities with other public or private agencies, organizations, and individuals.
- 8) This MOU shall be applicable to any successors and assigns of the City of Flagstaff's municipal water supply system.
- 9) The Parties do not assume liability for any third party claims for damages arising out of this agreement.
- 10) Any communications affecting the operations covered by this MOU given by the Parties is sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax to each of the Parties at the address specified in the MOU. Notices are effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.
- 11) Contributions by any of the Parties made under this MOU do not by direct reference or implication convey endorsement by the other Parties of the contributing Party's products or activities.
- 12) In order for any Party to use the insignia of the other Parties on any published media, such as a Web page, printed publication, or audiovisual production, written permission must be granted by the each Party's Office of Communication.
- 13) In accordance with Executive Order (E)) 13513, "Federal Leadership on Reducing Text Messaging While Driving," any and all text messaging by Federal employees is banned:
 - a) while driving a Government owned vehicle (GOV) or driving a privately owned

MEMORANDUM OF UNDERSTANDING

City of Flagstaff Agreement #
US Forest Service Agreement # 13-MU-11030420-009
USDI NPS Flagstaff Area National Monument Agreement #FLAG13MU01

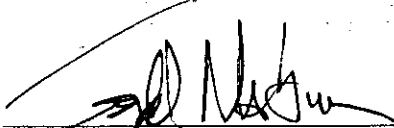
vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All cooperators, their employees, volunteers, and contractors are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs when driving while on official Government business or when performing any work for or on behalf of the Government.

- 14) The Parties shall acknowledge each other's support in any publications, audiovisuals, and electronic media developed as a result of this MOU.
- 15) The City shall immediately inform the U.S. Forest Service and the NPS if it or any of its principals are presently excluded, debarred or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should the City or any of its principals receive a transmittal letter or other official Federal notice of debarment or suspension, they shall notify the U.S. Forest Service and the NPS without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.

ARTICLE VI: Signatures

IN WITNESS WHEREOF, the Parties hereto have executed this MOU as of the last date written below.


CITY OF FLAGSTAFF


GERALD W. NABOURS
Mayor

1/22/13
Date

Approved as to form:

Attest:


Rosemary H. Rosales
City Attorney

1/18/13
Date


City Clerk


1.22.13
Date

MEMORANDUM OF UNDERSTANDING

City of Flagstaff Agreement #
US Forest Service Agreement # 13-MU-11030420-009
USD1 NPS Flagstaff Area National Monument Agreement #FLAG13MU01

ARTICLE VI: Signatures (Continued)

USDA FOREST SERVICE
COCONINO NATIONAL FOREST

 18 Dec
2012

M. EARL STEWART
Forest Supervisor

Date

The authority and format of this instrument has been
reviewed and approved for signature.

 12/18/2012

Elizabeth A. Vensel
Grants Management Specialist

Date

MEMORANDUM OF UNDERSTANDING

City of Flagstaff Agreement #
US Forest Service Agreement # 13-MU-11030420-009
USDI NPS Flagstaff Area National Monument Agreement #FLAG13MU01

ARTICLE VI: Signatures (Continued)

USDI NATIONAL PARK SERVICE
FLAGSTAFF AREA NATIONAL MONUMENTS

 12/14/12

DIANE CHUNG Date
Superintendent

**CHARTER
FOR THE
TECHNICAL ADVISORY COMMITTEE
LAKE MARY - WALNUT CREEK WATERSHED**

**ATTACHMENT
TO THE
MEMORANDUM OF UNDERSTANDING
BETWEEN
CITY OF FLAGSTAFF, ARIZONA
USDA FOREST SERVICE – COCONINO NATIONAL FOREST
USDI NATIONAL PARK SERVICE – FLAGSTAFF AREA NATIONAL
MONUMENTS**

PURPOSE

The Technical Advisory Committee (TAC) for the Lake Mary - Walnut Creek Watershed was created, as required by the Memorandum of Understanding (MOU) between the City of Flagstaff, USDA Forest Service, Coconino National Forest (No. 03-MU-11030417-661) and USDI National Park Service, Flagstaff Area National Monuments (No. G747003001) fully executed on September 2, 2003, to oversee cooperative efforts described in Section D of the Stipulation Between the City of Flagstaff ("City") and the United States on Behalf of the National Park Service ("NPS") and the Forest Service ("US Forest Service"), dated December 10, 2001, hereafter referred to as the Stipulation.

The original Charter is hereby superseded by this updated Charter for the Technical Advisory Committee, Lake Mary – Walnut Creek Watershed as an Attachment to the Memorandum of Understanding between City of Flagstaff, Arizona, USDA Forest Service – Coconino National Forest (#13-MU-11030420-009) and USDI National Park Service – Flagstaff Area National Monuments (#FLAG13MU01).

Under the Charter, the TAC:

- Provides guidance and multi-agency/multi-disciplinary advocacy for the protection and management of the Lake Mary - Walnut Creek Watershed, as delineated in the Stipulation, Figure 1-Walnut Creek Watershed (see attached map at end of document), and its associated municipal values.
- Develops and evaluates study proposals designed to evaluate and implement, where appropriate, best management practices, reservoir modifications, and/or operational criteria to address the quality and quantity of the municipal water supply, increase the likelihood of flood flows, and improve the inner canyon environment in Lake Mary - Walnut Canyon National Monument. Study proposals must be consistent with municipal.

values for a safe, adequate water supply and the management direction in the Coconino National Forest Land and Resource Management Plan, as amended and until superseded by the Revised Coconino National Forest Land and Resource Management Plan and the NPS General Management Plan for Walnut Canyon National Monument.

- May provide funding for collection of hydrologic data at Upper and Lower Lake Mary, in Walnut Canyon National Monument, and throughout the Lake Mary - Walnut Creek Watershed to support these studies if funding is available.

OBJECTIVES AND RESPONSIBILITIES

The objectives and responsibilities of the TAC are to:

- Assess short- and long-range needs for restoring flood flows, modifying reservoir operations or structures, or implementing additional best management practices to maintain the quality and quantity of the municipal water supply.
- Establish a mechanism for soliciting, evaluating, prioritizing, and recommending study and data collection proposals to the Forest Supervisor, Superintendent, and Mayor for concurrence and approval.
- Solicit proposals and develop scopes of work and contracts to collect and evaluate hydrologic data and to evaluate reservoir operations, best management practices, methods to increase the likelihood of flood flows, and methods to improve the inner-canyon environment in Walnut Canyon National Monument.
- Review funding needs and priorities.
- Identify and share professional and technical resources and information from the City, the NPS, and the USFS.
- Disseminate information to the public about watershed management issues and activities of the TAC.
- Coordinate with the trust management authority or financial institution on the allotment of funds to implement prioritized projects.
- Develop mechanisms for tracking project and program accountability.
- Develop either a consensus or range of technical and scientific opinion regarding the management of the Lake Mary - Walnut Creek Watershed that can be provided to the City and Agency Managers.
- Identify existing sources of information on the hydrology of Lake Mary - Walnut Creek Watershed.
- Develop a prioritized list of research and management study projects, based on input from qualified specialists.
- Ensure peer review of proposed research or study projects and TAC-recommended actions.

ORGANIZATION

Committee Membership

The TAC consists of six members: one primary representative and one alternate representative each from the City, the NPS, and the U.S. Forest Service. Each representative should possess education and/or experience in biology, ecology, hydrology, soil science, watershed management, utilities management, or civil engineering. Primary and alternate representatives are to be designated by the respective party's signatory to the MOU. A list of each Party's current representatives will be maintained as Appendix A to this Charter. Representatives will serve three-year terms, and may serve consecutive terms at the discretion of the authorized City or Agency Manager. Changes to designated representatives are made by written notice to all parties at least 30 days prior to the effective date of the change.

Committee Chairperson

A TAC Chairperson is elected by the entire committee membership to serve a one-year term, and can be either a primary or alternative representative. The Chairperson is responsible for conducting or delegating the following duties:

- conducting committee meetings, disseminating meeting notes and keeping TAC records,
- signing official TAC correspondence
- coordinating with the appropriate representative when making recommendations to the City or agencies.
- tracking and reporting the status of the trust fund/financial account to the TAC, and
- adhering to established controls and procedures with the authorized funding entity to track reimbursements for studies and projects.

OPERATING PROCEDURES

Meetings

The advisory committee meets as often as necessary or, at a minimum, two times per year. The TAC Chair schedules, organizes, and conducts meetings; members are notified at least one month prior to the meeting date. Draft meeting minutes are prepared by the Chair and provided to each TAC member within two weeks of the meeting.

TAC members are encouraged to invite subject matter experts to meetings, as needed, to provide technical information or expertise. These invited participants are not considered TAC members, nor are they allowed to participate during the TAC deliberations to reach consensus on recommendations to the City and Agency Managers.

Quorum

A quorum of three, consisting of any combination of one primary representative or alternate representative from each party, is required to conduct official business. All TAC recommendations to the City and Agencies are reached by consensus of the quorum. Study findings, deliberations, and recommendations are documented in meeting minutes and approved at subsequent meetings.

Study Proposals

Approval

Study proposals are recommended for implementation by a consensus of the quorum. Recommended proposals must meet the intent of the Stipulation and the MOU, objectives of the TAC, municipal values for a safe, adequate water supply, and the management direction in the Coconino National Forest Land and Resource Management Plan, as amended and until superseded by the Revised Coconino National Forest Land and Resource Management Plan, and the NPS General Management Plan for Walnut Canyon National Monument. Proposals outside the scope of the Lake Mary – Walnut Canyon MOU and Charter are not accepted.

Funding

Study projects are funded from a trust/financial account set up with the required one-time contribution of \$100,000 from the City. Additional funding acquired by or allocated to the NPS or U.S. Forest Service for TAC-approved studies of the Lake Mary - Walnut Creek Watershed are managed by the receiving Agency and are available through separate agreements or contracts.

The trust/financial account is managed by an entity with no vested interest in the Lake Mary - Walnut Creek Watershed, and which does not directly benefit as a result of an association with any of the involved parties. The principle, interest, or dividends may be used for any aspect of study of the Lake Mary - Walnut Creek Watershed during the life of this agreement, as agreed by all parties. The TAC may seek alternative funding sources to assist in this effort.

By mutual agreement of the parties, TAC funds may be used to fund on-the-ground project implementation. These projects are approved and implemented by the responsible agency; contribution of funds by the TAC to the responsible agency requires a separate, fund-obligating agreement.

Oversight

Oversight of each approved study project is assigned to the appropriate City or Agency representative with the subject matter expertise. Oversight includes working with the proponent to acquire any necessary research permits or agreements, monitoring the proponent's work and delivery requirements, approving payments for work accomplished, and scheduling a formal presentation of the study findings to the TAC by the proponent.

Study Findings and TAC Recommendations

Presentation of TAC study findings and/or recommendations to the City and Agencies are made by the quorum. Recommendations may include action items or project proposals designed to address the study findings and/or technical information concerning any area of the Lake Mary - Walnut Creek Watershed. The Agency responsible for the affected area or the City, as appropriate, decides whether to implement TAC recommendations.


TERM AND MODIFICATION

The TAC is chartered for the term of the current MOU and subsequent modifications, as agreed and approved by all parties. During this term, the TAC will review the Charter at least bi-annually, and make recommendations to the City, the U.S. Forest Service and the NPS for changes to the Charter, as necessary. Any modifications to the Charter are effective upon written approval by all parties.

SIGNATURES

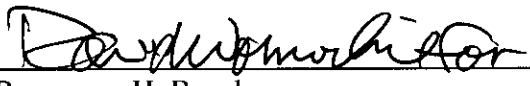
The parties hereto have executed this Attachment to the MOU as the Charter for the Technical Advisory Committee for the Lake Mary - Walnut Creek Watershed.

CITY OF FLAGSTAFF


GERALD W. NABOURS
Mayor

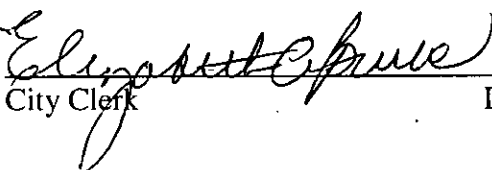
1/22/13
DATE

Approved as to form:


Rosemary H. Rosales
City Attorney

1/18/13
DATE

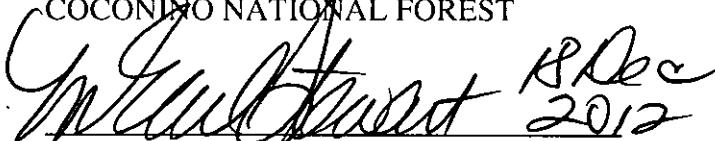
Attest:


Elizabeth C. Brown
City Clerk

1.22.13
Date


Lake Mary – Walnut Creek TAC Charter Signatures (Continued)

USDA FOREST SERVICE
COCONINO NATIONAL FOREST


M. EARL STEWART
Forest Supervisor

18 Dec
2012
DATE


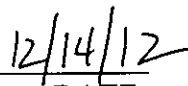
The authority and format of this instrument has been
reviewed and approved for signature.


Elizabeth A. Vensel
Grants Management Specialist

12/18/2012
DATE

Lake Mary – Walnut Creek TAC Charter Signatures (Continued)

USDI NATIONAL PARK SERVICE
FLAGSTAFF AREA NATIONAL MONUMENTS

DIANE CHUNG DATE
Superintendent

APPENDIX A:

Designated Lake Mary – Walnut Creek TAC Representatives

Primary and alternate representatives for each Party designated as follows:

City of Flagstaff

Primary Representative

Brad Hill
Utilities Director
211 W. Aspen Avenue
Flagstaff, AZ 86001
Phone: 928.213-2420
Fax: 928.556-1223
Email: bhill@flagstaffaz.gov

Alternate Representative

Erin Young
Water Resources Manager
211 W. Aspen Avenue
Flagstaff, AZ 86001
Phone: 928.213.2405
Fax: 928-556-1223
Email: eyoung@flagstaffaz.gov

NPS, Flagstaff Area National Monuments

Primary Representative

Paul Whitefield, Natural Resource Specialist
NPS, Flagstaff Area National Monument
6400 N. Highway 89
Flagstaff, AZ 86004
Phone: 928.526.1157
Fax: 928.526.4259
Email: Paul.Whitefield@nps.gov

Alternate Representative

Lisa Leap, Chief of Resources
NPS, Flagstaff Area National Monument
6400 N. Highway 89
Flagstaff, AZ 86004
Phone: 928.526.1157
Fax: 928.526.4259
Email: Lisa_Leap@nps.gov

Coconino National Forest

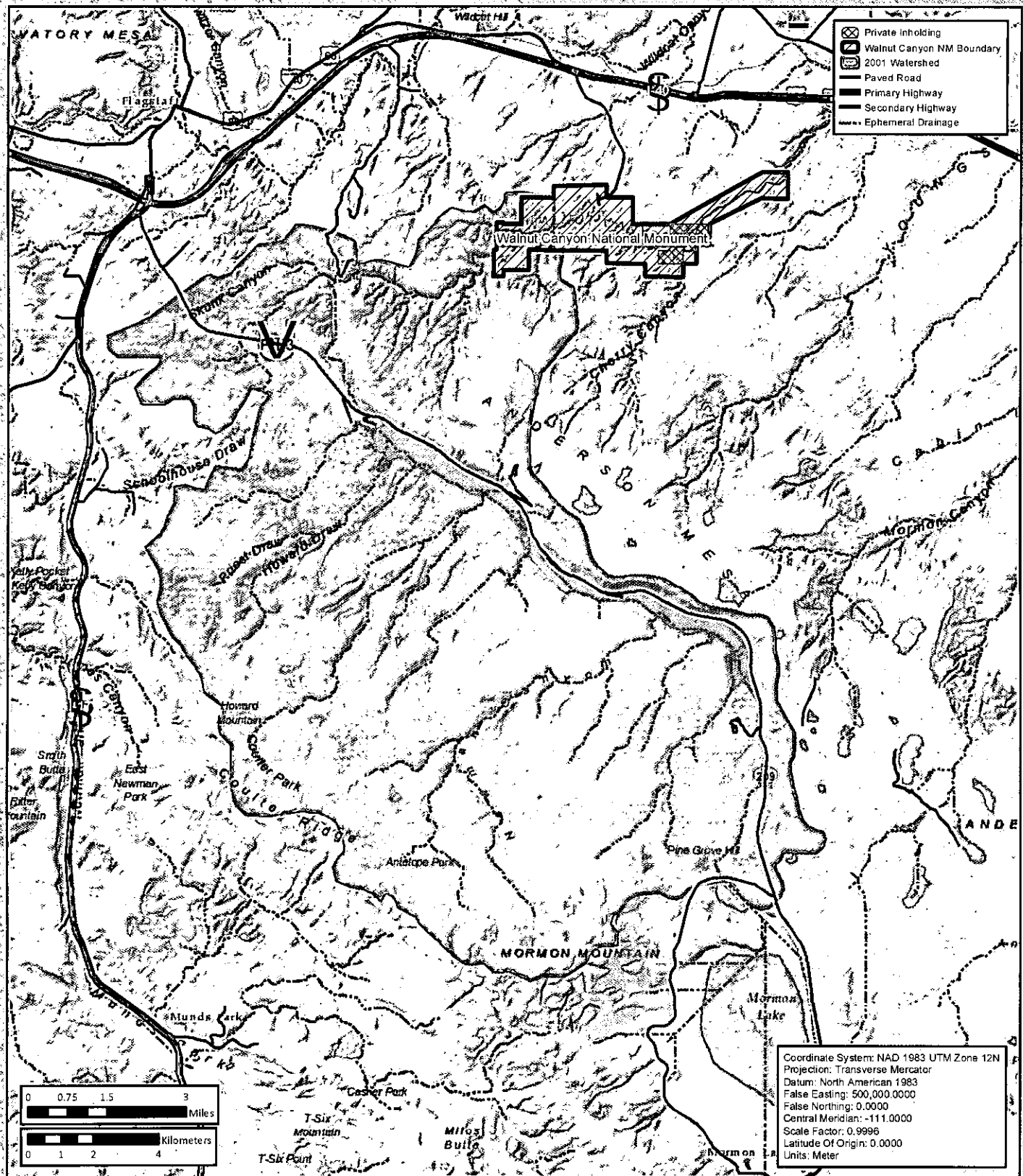
Primary Representative

Rory Steinke, Watershed Program Manager
Coconino National Forest
Supervisor's Office
1824 S. Thompson Street
Flagstaff, AZ 86001
Phone: 928. 527.3451
Fax: 928. 527.3620
Email: rsteinke@fs.fed.us

Alternate Representative

Tom Runyon, Hydrologist
Flagstaff Ranger District
Coconino National Forest
5075 N. Hwy 89
Flagstaff, AZ 86004
Phone: 928.527.8246
Fax: 928. 527.8288
Email: tarunyon@fs.fed.us

Lake Mary - Walnut Creek Watershed



This map is a scanned and georeferenced version of the original Walnut Creek Watershed Map, attached as Figure 1 to the "Stipulation Between The City Of Flagstaff And The United States On Behalf Of The National Park Service And The Forest Service", under Civil No. 6417, "The General Adjudication Of All Rights To Use Water In The Little Colorado River System and Source", executed in the Superior Court of Arizona, Apache County.

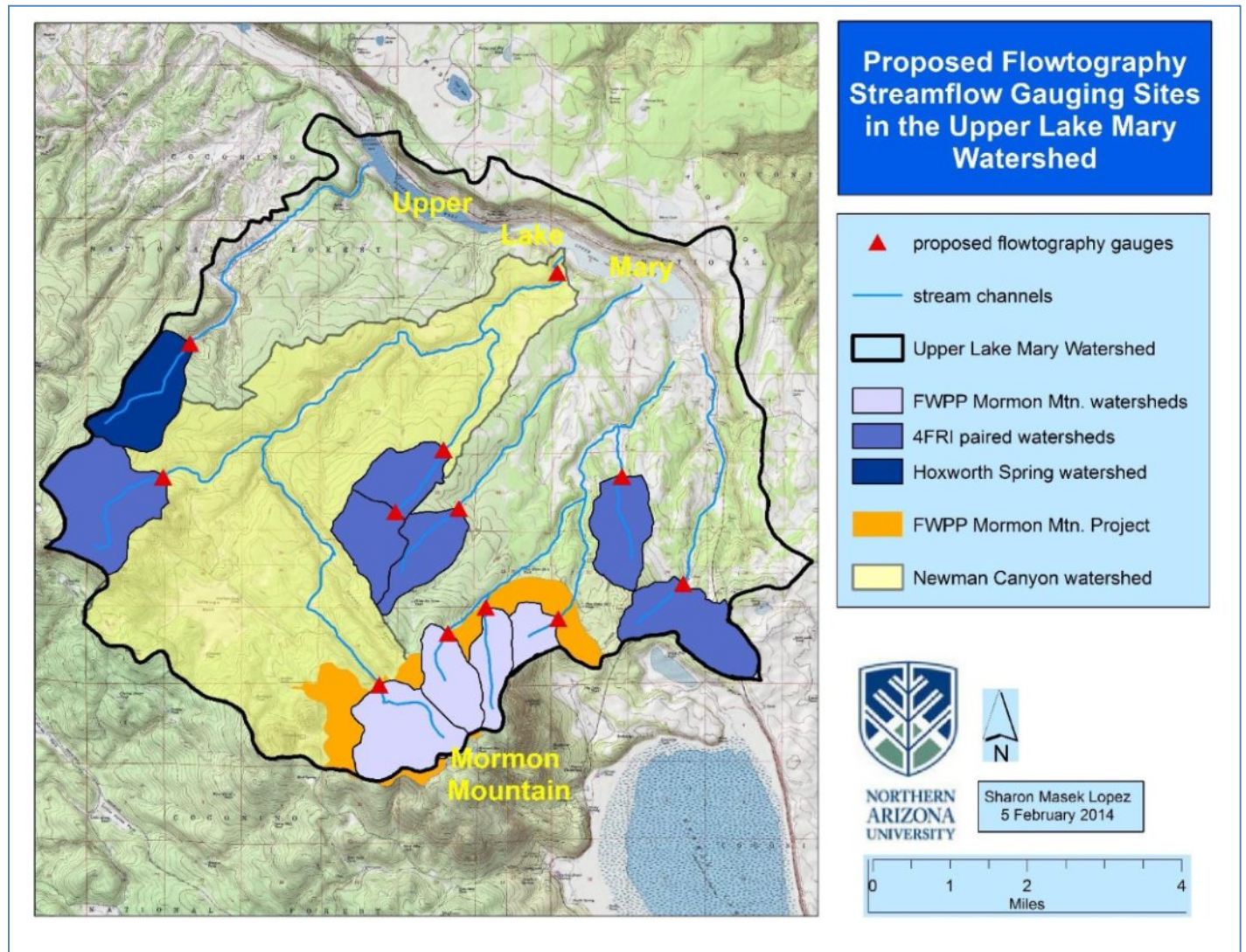
Lake Mary and Walnut Creek Technical Advisory Committee Proposal:

Monitoring Streamflow in the Lake Mary Watershed Using "Flowtopgraphy"

PROPOSAL

The Lake Mary and Walnut Creek Technical Advisory Committee is proposing to fund the installation of twelve "flowtopgraphy" streamflow gauges on washes that are all tributaries to Upper Lake Mary. The flowtopgraphy method is described below. The twelve gauges would be distributed as follows:

- Four on stream channels on Mormon Mountain to monitor runoff effects from Flagstaff Watershed Protection Project treatments,
- Six on washes whose watersheds are part of the 4FRI Paired Watershed Study,
- One located just downstream of Hoxworth Spring, and
- One at the USGS Newman Canyon gauge site.



The sites

The Mormon Mountain gauges would capture most of the Mormon Mountain FWWP treatment effects on water yield to Upper Lake Mary. Forest thinning treatments are anticipated on Mormon Mountain in 2018. These watersheds are in mixed conifer forest in the upper elevations and ponderosa pine forest in the lower elevations. The gauges will give some of the first insights into restoration treatment effects in mixed conifer forest in Arizona.

The proposed 4FRI Paired Watershed Study watersheds are 450 to 1,100 acres in size. Over the course of 20+ years, the paired watershed study will measure water balance (snow water storage, soil water storage, evapotranspiration, groundwater recharge, and surface water discharge) changes due to forest restoration treatments. Timing is critical for gauging streamflow at these locations. Preliminary flow data are needed to design weirs and flumes to gauge streamflow over two decades. Since June 2013, flow data have been collected by SRP on four paired watersheds in the Sycamore Creek watershed using flowtopgraphy. Flowtopgraphy measurements will be overlapped by at least one year with and flume measurements to verify flowtopgraphy accuracy.

The Hoxworth Spring watershed has had intermittent, seasonal hand measurements of streamflow collected by Dr. Abe Springer using a small portable Parshall flume since 1997. This watershed will undergo restoration treatments as part of the Elk Park Project starting in 2014. Collecting continuous flow measurements with flowtopgraphy before, during, and after forest thinning treatments will allow analysis of surface water and groundwater response to restoration treatments in the shortest possible timeframe, since other forest treatments in the Upper Lake Mary watershed may not occur for a 2 to 8 years.

The Newman streamflow gauge location is at the site of a proposed relocation of a City of Flagstaff streamflow gauge. This flowtopgraphy placement would provide a check on the accuracy of the flowtopgraphy method for a much larger drainage area (>14,000 acres) than the other flowtopgraphy sites in the Upper Lake Mary watershed that are approximately 450 to 1,200 acres.

This stream gauging effort would be a collaboration of the City of Flagstaff, Northern Arizona University, the Ecological Restoration Institute and Salt River Project. It would provide critical information in a timely manner. The gauges would contribute to our understanding of surface water runoff response to forest thinning treatments, as well as enable coordinated water quality sampling efforts. Resulting data may inform measures to protect Upper Lake Mary's water quality and quantity.

Flowtopgraphy can be a valuable resource for coordinating water quality sampling. Because photos are taken at 15-minute intervals and thumbnails are sent to the service provider's website hourly where they can be viewed online, streams can be easily monitored to determine whether flow events are occurring. With this knowledge, teams can be sent to collect grab samples for water quality analysis. This would be more cost-effective and involve less risk to equipment than placing multiple automatic water samplers.

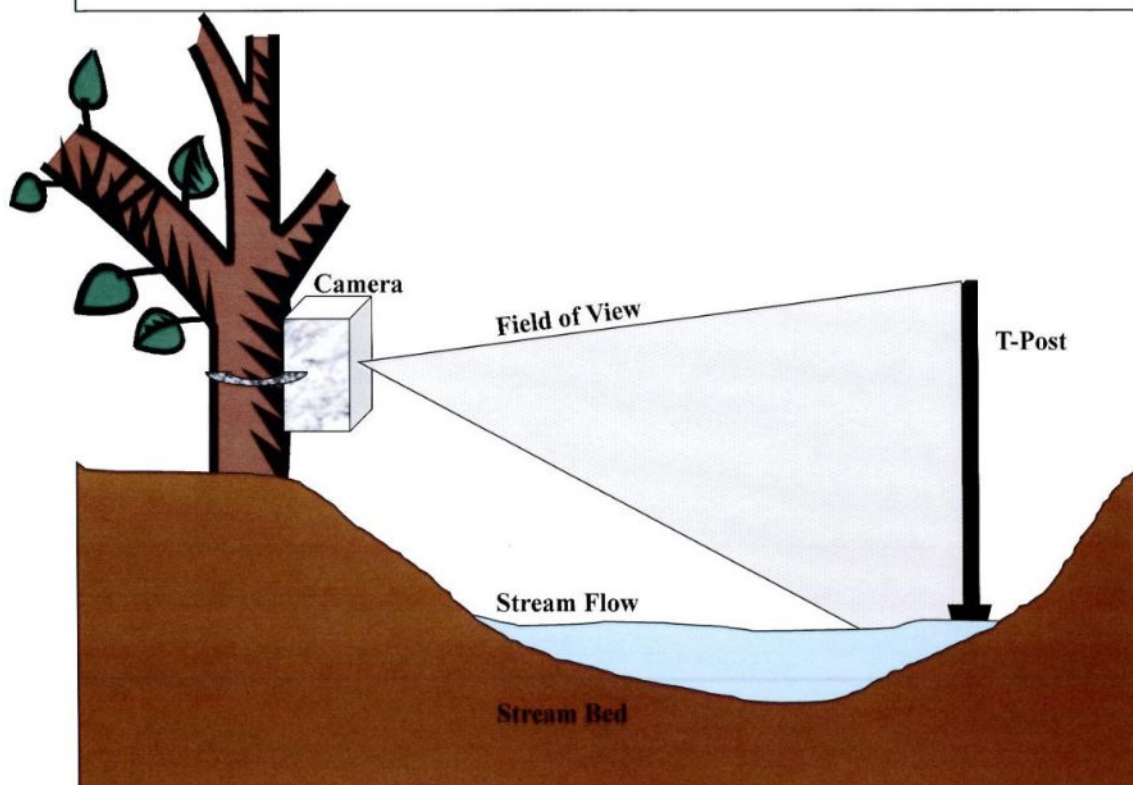
Methods

"Flowtography" is a simple, inexpensive way of monitoring streamflow, which was developed by Lee Ester of Salt River project. It is composed of a time-lapse camera (powered by a small solar panel and battery) and a T-post driven in the stream channel on which the camera is focused. First an appropriate stream channel area is found that has a generally symmetric cross-section, good lateral control (no spilling into a side channel), a straight approach from upstream for at least 50 feet, and sufficient drop. The channel cross-section and profile are surveyed, and a roughness coefficient is selected based on channel substrate. A dark green T-post with reflective tape affixed in 6 inch increments is pounded into the lowest part of the channel cross-section. A camera is mounted in a tree adjacent to the channel, along with the solar panel and battery and all parts are camouflaged with spray paint. The camera is focused on the T-post from ≤ 50 feet away either upstream or downstream. It takes pictures every 15 minutes, 24 hours per day.



StealthCam Drone time-lapse camera with cellular data connection

Typical Installation of Flowtography



The camera has a cellular phone data connection (optional, but highly recommended) that periodically sends thumbnail images to a service provider's website. A technician views thumbnail images online to determine whether flow events are occurring. Based on the frequency of flow events, the technician goes to the camera, swaps data cards and brings the data card back to the office for download, interpretation, and data archiving. More frequent field visits are needed during snowmelt and monsoon periods to avoid data loss, since the card will overwrite with new images once it is full. Onscreen photos of the water level on the T-post are measured using an engineering scale to determine water level height. Using water height, channel cross-section and profile, and channel roughness the Manning Equation is used to calculate flow.



Surveying channel cross-section.



Setting the T-post in the channel



Mounting the battery (left) and camera (right) in a tree.

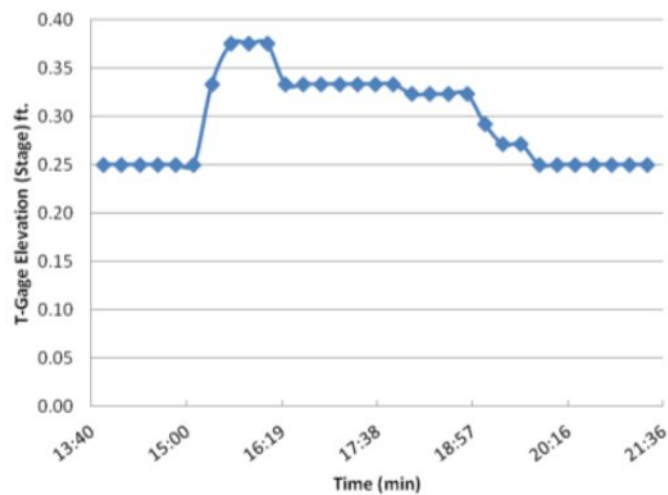


Background – camera mounted in a tree
 Mid-ground – downloading images via data card to a lap top and viewing
 Foreground – T-post at which the camera is aimed

Example of Results



Big Springs (MS1) Stage Height (ft.)



Budget

LMWCTAC is requesting approval of funds to support the purchase of time-lapse cameras and associated equipment and materials for the installation of 12 flowtography gauges. Installation costs are outlined in the table below. Please, note that Salt River Project (SRP) has committed to help with installation of the six paired watershed gauges. SRP staff will lead installation of the first six gauges and train City and University staff and students on installation methods, so that these skills can be used for installation of the remaining six gauges. SRP will also assist with the remaining six if their schedule allows. The value of SRP's contribution (\$15,891 to \$31,781, depending on staff availability) exceeds the cost of equipment and materials being requested of the City by LMWCTAC (\$12,000). In collaboration with NAU and Kaibab National Forest, SRP has already installed four flowtography gauges on national forest lands southeast of Williams. It is anticipated that the Coconino National Forest's hydrologist will contribute some of his time to the installation, as the soils scientist on the Kaibab National Forest did previously (estimated \$7,440 value).

An operating budget will be needed, but the LMWCTAC is not requesting operating funds at this time. We anticipate that operations will be a combined effort of City of Flagstaff, NAU, and SRP staff. An operating plan and budget are being developed. However, the requested equipment purchase is time sensitive. Equipment must be purchased soon to allow time for installation, preferably before the end of spring snowmelt and certainly before summer monsoon season.

Item	price	number	cost	SRP	LMWCTAC
Equipment					
time-lapse camera	\$600	12	\$7,200		\$7,200
solar panel, cables and wiring	\$150	12	\$1,800		\$1,800
Optima heavy duty, long-lasting battery	\$200	12	\$2,400		\$2,400
data cards	\$30	12	\$360		\$360
T-posts	\$10	12	\$120		\$120
reflective tape	\$30	4	\$120		\$120
equipment total					\$12,000
Labor		hours			
Lee Ester	\$62	120	\$7,440	\$7,440	
SRP Engineering Intern	\$30	120	\$3,600	\$3,600	
Sharon Masek Lopez	\$37	120	\$4,440	\$4,440	
labor total				\$15,480	\$0
Transportation					
vehicle rental	\$45	6	\$270	\$270	
mileage (67 miles round trip)	\$0.35	402	\$141	\$141	
transportation total				\$411	\$0
TOTAL INSTANTALLATION COST				\$15,891	\$12,000
per unit cost*				\$2,648	\$1,000

* per unit cost for SRP is based on 6 installations; up to 6 additional installations may be possible depending on staff availability

Timeframe

The various flow monitoring objectives have different timeframes, based on data needs for each project:

- The Mormon Mountain flowtopography streamflow gauges would be installed in 2014 and operate continuously until at least 6 years after restoration treatments occur (estimated 2018).
- The paired watershed gauging would extend from Spring 2014 to Spring 2016 for the six paired watershed study sites, overlapping by one year with flumes that will be installed in 2015. The flowtopography data will be highly valuable in developing flume design for long-term stream-gauging.
- For the Hoxworth Springs site, work would begin in Spring 2014 and extend through at least Spring 2018 to capture changes in discharge following restoration treatments that are expected to occur in 2014.
- The Newman Canyon flowtopography gauge would be installed in 2014 coincident with installation of the new City of Flagstaff or USGS streamflow gauge and remain in place for a period of 2 to 4 years as a verification of the flowtopography method at a larger watershed scale.

Progress reports will be provided quarterly. Annual data and analysis summary reports will also be provided. It is our understanding that the LM-WC TAC equipment purchase for each site is pending until development of a data collection and management plan/SOP, or something similar, and commitment to data collection for at least two years, is provided to the LM-WC TAC.

Other Considerations

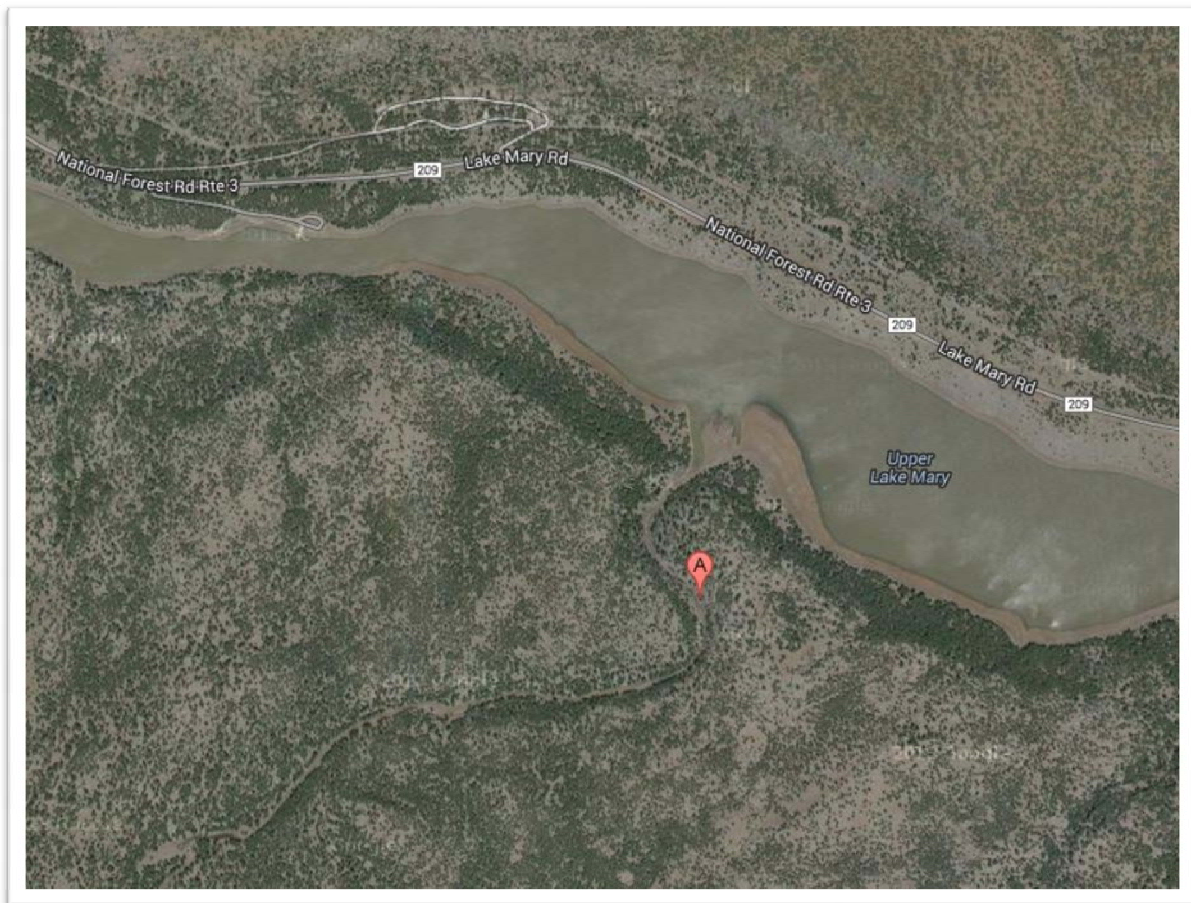
Access: Road access is limited to the twelve locations. During winter months all sites will have to be accessed by foot. Four of the five paired watershed sites have to be accessed by foot any time of year due to road closures that are part of the Travel Management Rule. Three of the paired watershed sites are only accessible by foot or horseback from August 15 to December 31, because they are in a designated non-motorized quiet area.

Permits: A permit will be obtained from Coconino National Forest (CNF). Sharon Masek Lopez has already met with a Forest Service representative about the permit. There will be a simple exchange of letters between SRP and CNF. The request letter from SRP will be very similar to a letter that was submitted to Kaibab National Forest for the same purpose. Technically the Forest Service does need to permit flowtopography, due to the nature of the activity (the use of cameras is similar to how many others mount wildlife cameras for hunting purposes, which does not require permit), but SRP feels more comfortable having the Forest Service acknowledge the activity.

Newman Canyon Rainfall, Streamflow and Sediment Gauge Proposal

Upper Lake Mary serves as an important water source for the City of Flagstaff. The Lake Mary and Walnut Creek Technical Advisory Committee is proposing to fund a combination rainfall/streamflow gauge on Newman Canyon Wash, the largest tributary of the lake, in order to better monitor and understand the volume, timing and quality of surface water recharge into the lake from the surrounding forested areas. The proposed gauge will collect rainfall and stream flow data in real time (as it occurs) and store it in a database for future analysis. These data will also be available on the internet within minutes of occurring, which will allow water managers to know when and at what level the wash is flowing and therefore, when water quality and sediment sampling from this intermittent/ephemeral wash may be possible. The data may also be useful in evaluating changes in water quality and water quantity that result from forest thinning projects that will be occurring within the watershed.

The proposed gauging site is located in Ponderosa Pine forest on US Forest Service property at an elevation of approximately 6860 feet. The equipment will be installed, as shown in the figure below, on the right bank of Newman Canyon Wash approximately 1500 feet upstream of the mouth of the canyon at: 111° 29' 25.06"W; 35° 03' 24.4"N, in the NW ¼, SW ¼, Section 6, Township 19 North, Range 9 East.



The drainage area of Newman Canyon Wash at the gauge site is 22.3 square miles (14,276 acres). This location was chosen because the wash cuts through rock at this point, creating a relatively narrow canyon with a stable cross section. The streambed also drops abruptly 68 feet at this point and it appears that most of the low flows are directed through a narrow notch in the rock. This should help minimize backwater effects and hysteresis in the rating curve and make it easier to measure the full

The drainage area of Newman Canyon Wash at the gauge site is 22.3 square miles (14,276 acres). This location was chosen because the wash cuts through rock at this point, offering a relatively narrow canyon with a stable cross section that makes it easier to measure a range of discharges.

USGS Installation and Maintenance

The USGS operates a nationwide network of rainfall and streamflow gauges and is the primary Federal agency responsible for observing, understanding, predicting and delivering water science to the nation. As such, they have extensive experience installing and maintaining streamflow gauges and they cooperate with a variety of communities, agencies and organizations to do so. The data collected by the USGS is subject to strict quality standards and is archived in a database available to any interested person via the internet. As part of standard gage operation, USGS regularly measures discharge at the site to develop a robust rating curve that can be collected by the USGS is transferred by satellite approximately a 10 minute delay.

Gauges operated by the USGS can be monitored by the general public through the USGS website, <http://waterdata.usgs.gov>. Through this site, historic and real time information on stream flow and precipitation can be viewed. Residents can also subscribe free of charge to the WaterAlert notification system. This system allows individuals to be notified via e mail or cell phone text message when an alert occurs.

Staff from the USGS have done a preliminary evaluation of the proposed site and have estimated the initial cost of installation to be approximately \$30,000 and the annual cost of maintenance to be \$16,400/year. An example of a similar USGS site is shown in the photograph at right.



In addition to collecting streamflow data, the USGS can install equipment to collect suspended sediment samples. The USGS currently operates several streamflow gauging stations in northern Arizona equipped with automatic pump samplers (example shown in photograph below).

These samplers can be programmed to collect water samples automatically when the stream level reaches a predetermined height. The water samples can then be retrieved from the sampler when convenient. The collected water samples can be analyzed for a host of water quality parameters including suspended sediment concentration.

As part of the Water Cooperative Program for the current fiscal year (FY2014) there are USGS matching funds available that could be used towards installing and operating a streamflow gauging station and automatic pump sampler in Newman Canyon. Additional matching funds may be available in subsequent years to contribute towards maintenance and operation of the streamflow gauge and pump sampler.



Proposed Budget for Installing Streamflow Gauging Station in Newman Canyon

	<u>Cooperator Cost</u>	<u>USGS Contribution</u>
Installation of streamflow gaging station including: environmental shelter, data logger, non submersible pressure transducer, satellite transmitting system, solar charging system, tipping bucket rain gauge, stage discharge relationship	\$18,300	\$11,700
Installation of automatic pump sampler	\$4,150	\$2,650
Total	\$22,450	\$14,350

Proposed Budget for Maintenance and Operation (July 1, 2014 – September 30, 2014)

	<u>Cooperator Cost</u>	<u>USGS Contribution</u>
Operation and maintenance of streamflow gauge and rain gauge including quality assurance/quality control and archiving of streamflow data	\$2,050	\$2,050
Operation and maintenance of automatic pump sampler and analysis of water quality samples for suspended sediment concentration*	\$2,000	\$2,000
Total	\$4,050	\$4,050

*Suspended sediment concentration is the only analyte that would be measured.

Proposed Budget for Maintenance and Operation Fiscal Year 2015 (Oct 1, 2014 - Sept 30, 2015)

	<u>Cooperator Cost</u>	<u>USGS Contribution</u>
Operation and maintenance of streamflow gauge and rain gauge including quality assurance/quality control and archiving of streamflow data	\$8,200	\$8,200
Operation and maintenance of automatic pump sampler and analysis of water quality samples for suspended sediment concentration*	\$4,000	\$4,000
Total	\$12,200	\$12,200

*Suspended sediment concentration is the only analyte that would be measured.

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Randall Groth, Project Manager
Co-Submitter: Rick Barrett, City Engineer
Date: 03/24/2014
Meeting Date: 04/01/2014



TITLE:

Consideration and Approval of Contract: Professional Services for Materials Testing. ***(Approve contract to test materials during construction).***

RECOMMENDED ACTION:

- 1) Approve the contract with ATL, Inc. for a total estimated annual amount of \$172,940, which includes a \$10,000 contingency. The contract will be for an initial term of three (3) years with two (2), one-year renewal terms.
- 2) Authorize the City Manager to execute the necessary documents.

Policy Decision or Reason for Action:

The contract will authorize an annual materials testing services agreement, which provides quality assurance for all permitted City infrastructure improvements. Within the three-year term, the contract shall be subject to annual renewals contingent upon a successful annual performance review.

Financial Impact:

Revenue is generated through Engineering Permit Fees (100% recovery level estimated to generate \$215,000 per year). The \$172,940 contract amount is proposed to be funded in the first year of the three-year contract with unspent FY14 Testing Program funds, Engineering Section salary savings of \$30,137 and the proposed FY15 base budget for the Materials Testing Program in the amount of \$142,803 (Acct. 001-05-102-0315-4).

Connection to Council Goal:

1) Regional Plan (2030) - Planning; Locating Facilities (PF.2): Provide sustainable and equitable public facilities, services and infrastructure systems in an efficient and effective manner to serve all population areas and demographics.

Has There Been Previous Council Decision on This:

On July 16th, 2013, Ordinance 2013-17 was adopted by the Mayor and City Council amending Title 3-10-001-0001, Planning Fees, Section 3-10-001-0002, Engineering Fees, and Section 3-10-001-0005, Recreation Fees; providing for a savings clause; and providing that all ordinances or any part of the Flagstaff City Code in conflict with the provisions of this ordinance shall be repealed upon the effective date of this ordinance. Specifically, a new Engineering Fee was established for 100% cost recovery associated with Materials Testing as a percentage (2.15%) of public improvements construction cost.

At a Work Session held on September 17th, 2013, Staff presented results of a Request for Information (RFI) procurement process which demonstrated that private-sector materials testing service providers could be competitive with budgeted cost of similar City services. Council supported a procurement process to seek qualified professional service providers through a Request for Statements of Qualifications (RSOQ) selection process.

Options and Alternatives:

- 1) Approve the award as recommended. Approval will allow ATL, Inc. materials testing field and laboratory personnel to be setup and ready for the 2014 construction season.
- 2) Reject the approval of the award and provide additional direction to staff. This option would impact the ability of the City to perform quality assurance testing for infrastructure improvements in 2014.

Background/History:

As part of the FY14 Budget process, the City Manager established an initiative to explore ways to reduce staff burden through use of private sector service providers. By the end of May 2013, the Materials Testing Program was faced with one (1) vacancy and one (1) pending retirement in the two-FTE work group. In order to continue providing excellent customer service to our permitted contractors, we immediately hired Speedie & Associates (Speedie) from the On-Call pool of professional service providers. Also, at this time we initiated the RFI/RSOQ procurement process. Speedie has been paid \$61,332.50 for services rendered from May 21, 2013 through January 15, 2014.

Key Considerations:

Four (4) firms submitted their Statement of Qualifications for performing materials testing. A five-person evaluation committee independently reviewed each submittal and scored the firms on the following criteria: the firm and their assigned personnel's qualifications, expertise, knowledge, experience and service strategies as related to materials testing. The initial evaluation results are based upon a total of 500 potential points.

Two (2) firms tied in their initial evaluation point totals and were chosen as the two shortlisted firms invited to interview with the committee. The interview component provided for an additional 50 points, giving an aggregate total of 550 points. The scoring results are shown below and on the attached scoring tabulation document.

Company	SOQ Score	Interview	Total Points
ATL, Inc.	438	45.25	483.25
Speedie & Associates	438	38.00	476.00
Western Tech.	405	-	405.00
Ninyo & Moore	397	-	397.00

Expanded Financial Considerations:

Engineering fees have been established to generate approximately \$215,000 per year based on estimated volume of permits issued. The Materials Testing permit fee is 2.15% of the public improvements construction cost. The recommended annual contract with ATL, Inc. in the amount of \$172,940 (Level 1) leaves approximately \$42,000 to cover indirect costs such as Program administration (Level 2), Engineering/ Community Development administration (Level 3) and other City Section/Division administration (Level 4).

FY14 expenditures to date for the Materials Testing program are approximately \$67,000 for Speedie & Associates (on-call services) and \$33,000 for the City-run program, totaling \$100,000, leaving a balance

of approximately \$43,000. We anticipate that Speedie will earn approximately \$20,000 by the end of FY14.

Community Benefits and Considerations:

Infrastructure improvements that become the property of the City are built to standards established by the Office of the City Engineer. The quality assurance verification that infrastructure improvements are compliant with the City's established standards is achieved through the use of materials testing protocols using trained personnel and approved laboratory testing methodologies.

The elimination of the City's in-house materials testing personnel and laboratory initiated the need to hire a private-sector firm that will be managed by the Office of the City Engineer and will report directly to assigned City staff. This provides the necessary quality assurance required to ensure compliance.

Community Involvement:

Inform

The award of this contract assures the public that infrastructure improvements, which will become City assets, were built to meet and/or exceed the standards established by the Office of the City Engineer.

Attachments: Letter, Fee, Scope
 Agreement
 CCR
 Scoring Tabulation



January 23, 2014

Mr. Daniel Casados
City of Flagstaff
211 W. Aspen Ave.
Flagstaff, AZ 86001

Re: **City of Flagstaff**
RSOQ: 2014-31
Professional Services for Materials Testing

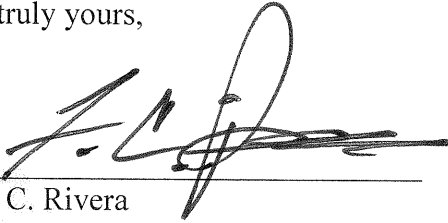
Dear Mr. Casados,

ATL, Inc. (ATL) hereby confirms it will perform various construction materials testing services (field and laboratory) for the City of Flagstaff as stipulated in Section IV, Scope of Services (pages 7 and 8) of this RSOQ.

ATL's unit price estimated cost proposal for these services is attached as Exhibit A for incorporation into the contract.

ATL sincerely appreciates the opportunity to be a part of the City of Flagstaff team.

Very truly yours,



Frank C. Rivera
President/CEO

FCR/er

Attachment: Exhibit A



EXHIBIT A

CITY OF FLAGSTAFF 2014-31 MATERIALS TESTING SERVICES

TYPE OF TEST	ESTIMATED TOTAL NUMBER OF TESTS FOR CITY	UNIT COST OF TEST INCLUDING INCIDENTALS, OVERHEAD & PROFIT	TOTAL ESTIMATED COST
DENSITY - SOIL	2538	25	63450
DENSITY - AC	532	30	15960
PROCTOR	33	95	3135
GRADATION - SOILS	3	60	180
GRADATION - MA	30	60	1800
GRADATION - CHIPS	6	60	360
PLASTIC INDEX	40	55	2200
CYLINDERS	898	15	13470
CONCRETE BREAKS	874	15	13110
AIR CONTENT	173	15	2595
SLUMP	180	15	2700
AC CONTENT	73	75	5475
AC GRADATION	73	30	2190
AC MOISTURE	73	15	1095
MARSHAL PLUGS	136	95	12920
STABILITY & FLOW	142	95	13490
RICE	39	60	2340
AIR VOIDS	38	15	570
LA ABRASION	5	130	650
SAND EQUIVALENT	70	75	5250
		TOTAL ESTIMATED ANNUAL TESTING AMOUNT	\$162,940

- CONTINGENCY ALLOWANCE \$10,000.00
- STANDBY TIME (IF REQUIRED) \$62.00 / HOUR
SENIOR TECHNICIAN
- OVERTIME (IF REQUIRED) STRAIGHT TIME x 1.35

participants and the subject matter, and shall invite the public to participate. No contacts made by telephone, other than to schedule a public meeting, are permitted. Copies of contacts made by letter, facsimile, e-mail, or other written method shall be made available to the public, press, and all submitting firms.

RESERVATION OF RIGHTS

There shall be no express or implied intent to contract until expressly stated in writing by City, an award is made, and all conditions stated herein are satisfied. The City reserves the right to reject any or all SOQs, or to withhold the award for any reason it may elect, and to waive or decline to waive irregularities in any proposal.

IV. SCOPE OF SERVICES

The City of Flagstaff (the "City") invites interested professionals to submit a written Statement of Qualifications (SOQ) for performing annual construction materials testing services for infrastructure improvements in and for the City of Flagstaff, Arizona. The contract would be for a minimum term of three years. Within the three-year term, the contract shall be subject to annual renewals contingent upon successful performance reviews, generally based upon the quality, technical accuracy, timely completion and coordination of all services provided under this contract.

Firms must submit a SOQ that clearly demonstrates the firm's applicable competence, qualifications and relevant experience with construction materials and testing including being able to demonstrate adequate resources for delivery of the required services.

The scope of services required is consistent with the City of Flagstaff Agreement for Materials Testing Services contract, which is attached as a reference document and will be posted on the City of Flagstaff website along with the RSOQ as a related document.

Additional conditions and services will generally include, but may not be limited to,

1. Equipment and Laboratory Criteria
 - a. Provision of a laboratory facility located in Flagstaff. A physical facility is preferred however, a mobile laboratory suited for all necessary testing may be considered.
 - b. All laboratory equipment shall be calibrated annually. Verification of calibration is required. Ongoing maintenance of equipment is required. The City reserves the right to inspect laboratory facilities at any time.
 - c. Nuclear densometers are required for determining field density, moisture content and oil content and shall be stored and operated at all times in strict adherence to Arizona radiation regulatory agency requirements.
2. Personnel Qualifications and Personnel Performance Criteria
 - a. City desires that field personnel have ACI certification, NICET and/or ATTI certifications.
 - b. Ability to maintain strict adherence to industry accepted testing procedures and requirements when conducting and reporting test results.
 - c. Field personnel are required to meet a one-hour maximum response time between various project locations.
 - d. Ability to perform critical tests and sampling for asphalt (e.g. Marshall plug, oil content, gradation, stability/flow and voids) and to report lab results to the assigned City Inspector within four (4) hours of taking the sample.
 - e. Ability to perform critical tests and sampling for soils and aggregate base course (e.g. proctor, sieve, plasticity index and gradation) following initial testing and to report lab results to the assigned City Inspector within four (4) hours of taking the sample.

- f. Field personnel shall demonstrate having received safety training, competency in confined space entry, flagging and traffic control, trench excavations and general work zone safety
- g. Materials testing field personnel shall be able to demonstrate the ability to ;
 - i. accept direction from the City's Construction Manager
 - ii. function as a team member
 - iii. provide excellent customer service in all situations that arise on a construction site
 - iv. perform their duties as an extension of City staff
 - v. accept direction from City Inspectors as to frequency and location of tests and how to report failing tests to our customers
 - vi. read construction plans and specifications
 - vii. identify issues and to communicate their concerns to the City Inspector

3. Firms' Criteria

- a. All laboratory materials testing shall be conducted under the direct supervision of a Professional Engineer registered in the State of Arizona.
- b. Demonstrate that staff is skilled, knowledgeable and well trained in materials testing processes and protocols.
- c. Firms providing information in response to this RSOQ must be able to maintain a fully integrated training and quality control program, independently from the City.
- d. Materials testing services as provided by the private sector shall be a seamless extension of City staff performing quality assurance services on all projects permitted in the City right-of-way. These material testing services are not to be considered quality control services performed on behalf of the permitted contractor.
- e. Firm shall demonstrate their ability to perform testing accurately with attention to detail in both the laboratory and in the field.
- f. A minimum of two (2) materials testing field personnel shall be provided, solely dedicated to City projects from April 15 to December 15. The personnel shall be available to respond on an as need basis with a twenty-four (24) hour notice from December 15 through April 15.
- g. Firm must demonstrate the ability to adjust staffing level to accommodate fluctuations in workloads.
 - i. Regular attendance is a mandatory requirement of the service provided. Staff must be able to work weekends, holidays and night shifts.
- h. Demonstrate that field personnel have adequate construction site transportation, cell phones, necessary field testing equipment and safety clothing.
- i. Maintain accurate and complete records and reports
 - i. Submittal of test results to the City on a weekly basis

**AGREEMENT FOR
MATERIALS TESTING PROFESSIONAL SERVICES**

**CITY OF FLAGSTAFF
and**

ATL, INC.

This Agreement for a City of Flagstaff Materials Testing Professional Services ("Agreement") is made by and between the City of Flagstaff ("City"), a municipal corporation with offices at 211 W. Aspen Avenue, Flagstaff, Coconino County, Arizona, and ATL, Inc., with an office at 2921 N. 30th Ave, Phoenix, Maricopa County, Arizona ("Provider"), effective as of the date written below.

RECITALS

A. The City desires to enter into this Agreement for Materials Testing Professional Services and

B. Provider has available and offers to provide the qualified personnel, materials and equipment necessary to organize and provide said services in accordance with the Scope of Work, attached to this Agreement as Exhibit A;

For the reasons recited above, and in consideration of the mutual covenants contained in this Agreement, the City and Provider agree as follows:

1. SERVICES TO BE PERFORMED BY PROVIDER

Provider agrees to provide the services, as set forth in detail in Exhibits "A" and "B" attached hereto and hereby incorporated as part of this Agreement and adopted by reference.

2. COMPENSATION OF PROVIDER

The City agrees to make payment, in the amount of \$172,940.00 to Provider to render the services set forth in Exhibits "A" and "B".

3. RIGHTS AND OBLIGATIONS OF PROVIDER

3.1 Independent Contractor. The parties agree that Provider performs specialized services and that Provider enters into this Agreement with the City as an independent contractor. Nothing in this Agreement shall be construed to constitute Provider or any of Provider's agents or employees as an agent, employee or representative of the City. As an independent contractor, Provider is solely responsible for all labor and expenses in connection with this Agreement and for any and all damages arising out of Provider's performance under this Agreement. Provider is not obligated to accept all requests for services, depending on circumstances with other work being performed for other clients.

3.2 Provider's Control of Work. All services to be provided by Provider shall be performed as determined by the City in accordance with the Scope of Services set forth in Exhibits "A" and "B" Provider shall furnish the qualified personnel, materials, equipment and other items necessary to carry out the terms of this Agreement. Provider shall be responsible for and in full control of the work of all such personnel.

3.3 Reports to the City. Although Provider is responsible for control and supervision of work

performed under this Agreement, the services provided shall be acceptable to the City and shall be subject to a general right of inspection and supervision to ensure satisfactory completion. This right of inspection and supervision shall include, but not be limited to, all reports if requested by the City to be provided by Provider to the City and the right of the City, and the right of the City to audit Provider's records.

3.4 Compliance with All Laws. Provider shall comply with all applicable laws, ordinances, rules, regulations and executive orders of the federal, state and local government, which may affect the performance of this Agreement. Any provision required by law, ordinances, rules, regulations, or executive orders to be inserted in this Agreement shall be deemed inserted, whether or not such provisions appear in this Agreement.

4. NOTICE PROVISIONS

Notice. Any notice concerning this Agreement shall be in writing and sent by certified or registered mail as follows:

To the City's Authorized Representative:

Randy Groth
Senior Project Manager
City of Flagstaff
211 W. Aspen
Flagstaff, Arizona 86001

To Provider:

Frank Rivera
President
ATL, Inc.
2921 N. 30th Ave
Phoenix, Arizona 85017

5. INDEMNIFICATION

To the fullest extent permitted by law, Provider shall indemnify, defend, save and hold harmless the City of Flagstaff and its officers, officials, agents, and employees (hereinafter referred to as "Indemnatee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, in whole or in part, by the negligent, reckless or willful acts or omissions of Provider or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such Provider to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent, reckless or willful acts or omissions of the Indemnatee, be indemnified by Provider from and against any and all claims caused in whole or in part, by the negligent, reckless or willful acts or omissions of the Provider. It is agreed that Provider shall be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. Provider shall waive all rights of subrogation against the City, its officers, officials, agents and employees for losses arising from the work performed by Provider for the City.

6. INSURANCE

Provider and subcontractors, if any, shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Provider, its agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Agreement and in no

way limit the indemnity covenants contained in this Agreement. The City in no way warrants that the minimum limits contained herein are sufficient to protect Provider from liabilities that may arise out of the performance of the work under this Agreement by Provider, its agents, representatives, employees or subcontractors and Provider is free to purchase additional insurance as may be determined necessary.

A. Minimum Scope and Limits of Insurance. Provider shall provide coverage at least as broad and with limits of liability not less than those stated below.

1. Automobile Liability - Any Auto or Owned, Hired and Non-Owned Vehicles
(Form CA 0001, ed. 12/93 or any replacement thereof.)
Combined Single Limit Per Accident \$1,000,000
for Bodily Injury and Property Damage
2. Professional Liability \$2,000,000

B. SELF-INSURED RETENTIONS/DEDUCTIBLES: Any self-insured retentions and deductibles must be noted to the City. However, the Provider shall be solely responsible for any self-insured and/or deductibles associated with the Provider's insurance coverage.

C. OTHER INSURANCE REQUIREMENTS: The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages:
 - a. The City of Flagstaff, its officers, officials, and employees are additional insureds with respect to liability arising out of: activities performed by, or on behalf of, the Provider; including the City's general supervision of the Provider; products and completed operations of the Provider; and automobiles owned, leased, hired or borrowed by the Provider.
 - b. The Provider's insurance shall contain broad form contractual liability coverage.
 - c. The Provider's insurance coverage shall be primary insurance with respect to the City, its officers, officials, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be in excess to the coverage of the Provider's insurance and shall not contribute to it.
 - d. The Provider's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 - e. Coverage provided by the Provider shall not be limited to the liability assumed under the indemnification provisions of this contract.
 - f. The policies shall contain a waiver of subrogation (not including auto) against the City, its officers, officials, and employees for losses arising from work performed by the Provider for the City.
2. Workers' Compensation and Employer's Liability Coverage: The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses arising from work performed by the Provider for the City.

- 6.1 Notice of Cancellation. Each insurance policy required by the insurance provisions of this Agreement shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the City, except when cancellation is for non-payment of premium, then at least ten (10) days prior notice shall be given to the City. Such notice shall be sent directly to:

Rick Compau, C.P.M., CPPO, CPPB
Purchasing Director
City of Flagstaff, Purchasing Division
211 W. Aspen Ave.
Flagstaff, Arizona 86001

- 6.2 Acceptability of Insurers. Insurance shall be placed with insurers duly licensed or authorized to do business in the State of Arizona and with an "A.M. Best" rating of not less than A- VII, or receiving prior approval by the City. The City in no way warrants that the above-required minimum insurer rating is sufficient to protect Provider from potential insurer insolvency.
- 6.3 Verification of Coverage. Prior to commencing work or services, Provider shall furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Agreement. The certificates for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements shall be received and approved by the City before work commences. Each insurance policy required by this Agreement shall be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of this Agreement. Failure to maintain the insurance policies as required by this Agreement or to provide evidence of renewal shall constitute a material breach of contract.

All certificates required by this Agreement shall be sent directly to **Rick Compau, C.P.M., CPPO, CPPB, Purchasing Director, City of Flagstaff, Purchasing Division, 211 W. Aspen Ave., Flagstaff, AZ. 86001.** The City project/contract number and project description shall be noted on the certificate of insurance. The City reserves the right to request and receive within ten (10) days, complete, certified copies of all insurance policies required by this Agreement at any time. The City shall not be obligated, however, to review same or to advise Provider of any deficiencies in such policies and endorsements, and such receipt shall not relieve Provider from, or be deemed a waiver of the City's right to insist on, strict fulfillment of Provider's obligations under this Agreement.

- 6.4 Subcontractors. Providers' certificate(s) shall include all subcontractors as additional insureds under its policies **or** Provider shall furnish to the City separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.
- 6.5 Approval. Any modification or variation from the insurance requirements in this Agreement shall be made by the City Attorney's office, whose decision shall be final. Such action shall not require a formal amendment to this Agreement, but may be made by administrative action.

7. DEFAULT AND TERMINATION

7.1 Events of Default Defined. The following shall be Events of Default under this Agreement:

7.1.1 Any material misrepresentation made by Provider to the City;

7.1.2 Any failure by Provider to perform its obligations under this Agreement including, but not limited to, the following:

7.1.2.1 Failure to commence work at the time(s) specified in this Agreement due to a reason or circumstance within Provider's reasonable control;

7.1.2.2 Failure to perform the work with sufficient personnel and equipment or with sufficient equipment to ensure completion of the work within the specified time;

7.1.2.3 Failure to perform the work in a manner reasonably satisfactory to the City;

7.1.2.4 Failure to promptly correct or re-perform within a reasonable time work that was rejected by the City as unsatisfactory or erroneous;

7.1.2.5 Discontinuance of the work for reasons not beyond Provider's reasonable control;

7.1.2.6 Failure to comply with a material term of this Agreement, including, but not limited to, the provision of insurance; and

7.1.2.7 Any other acts specifically stated in this Agreement as constituting a default or a breach of this Agreement.

7.2 Remedies.

7.2.1 Upon the occurrence of any Event of Default, the City may declare Provider in default under this Agreement. The City shall provide written notification of the Event of Default and any intention of the City to terminate this Agreement. Upon the giving of notice, the City may invoke any or all of the following remedies:

7.2.1.1 The right to cancel this Agreement as to any or all of the services yet to be performed;

7.2.1.2 The right of specific performance, an injunction or any other appropriate equitable remedy;

7.2.1.3 The right to monetary damages;

7.2.1.4 The right to withhold all or any part of Provider's compensation under this Agreement;

7.2.1.5 The right to deem Provider non-responsive in future contracts to be awarded by the City; and

7.2.1.6 The right to seek recoupment of public funds spent for impermissible purposes.

7.2.2 The City may elect not to declare an Event of Default or default under this Agreement or to terminate this Agreement upon the occurrence of an Event of Default. The parties acknowledge that this provision is solely for the benefit of the City, and that if the City allows

Provider to continue to provide the Services despite the occurrence of one or more Events of Default, Provider shall in no way be relieved of any of its responsibilities or obligations under this Agreement, nor shall the City be deemed to waive or relinquish any of its rights under this Agreement.

7.2.3 Any excess costs incurred by the City in the event of termination of this Agreement for default, or in the event the City exercises any of the remedies available to it under this Agreement, may be offset by use of any payment due for services completed before termination of this Agreement for default or the exercise of any remedies. If the offset amount is insufficient to cover excess costs, Provider shall be liable for and shall remit promptly to the City the balance upon written demand from the City.

8. GENERAL PROVISIONS

8.1 Headings. The article and section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

8.2 Jurisdiction and Venue. This Agreement shall be administered and interpreted under the laws of the State of Arizona. Provider hereby submits itself to the original jurisdiction of those courts located within Coconino County, Arizona.

8.3 Attorney's Fees. If suit or action is initiated in connection with any controversy arising out of this Agreement, the prevailing party shall be entitled to recover in addition to costs such sum as the court may adjudge reasonable as attorney fees, or in event of appeal as allowed by the appellate court.

8.4 Severability. If any part of this Agreement is determined by a court to be in conflict with any statute or constitution or to be unlawful for any reason, the parties intend that the remaining provisions of this Agreement shall remain in full force and effect unless the stricken provision leaves the remaining Agreement unenforceable.

8.5 Assignment. This Agreement is binding on the heirs, successors and assigns of the parties hereto. This Agreement may not be assigned by either the City or Provider without prior written consent of the other.

8.6 Conflict of Interest. Provider covenants that Provider presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Provider further covenants that in the performance of this Agreement, Provider shall not engage any employee or apprentice having any such interest. The parties agree that this Agreement may be cancelled for conflict of interest in accordance with Arizona Revised Statutes § 38-511.

8.7 Authority to Contract. Each party represents and warrants that it has full power and authority to enter into this Agreement and perform its obligations hereunder, and that it has taken all actions necessary to authorize entering into this Agreement.

8.8 Integration. This Agreement represents the entire understanding of City and Provider as to those matters contained in this Agreement, and no prior oral or written understanding shall be of any force or effect with respect to those matters. This Agreement may not be modified or altered except in writing signed by duly authorized representatives of the parties.

8.9 Non-appropriation. In the event that no funds or insufficient funds are appropriated and budgeted in any fiscal period of the City for payments to be made under this Agreement, the City shall notify Provider of such occurrence, and this Agreement shall terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds

appropriated for payment under this Agreement are exhausted. No payments shall be made or due to Provider under this Agreement beyond these amounts appropriated and budgeted by the City to fund payments under this Agreement.

8.10 Compliance with Federal Immigration Laws and Regulations. Provider hereby warrants to the City that the Provider and each of its subcontractors ("Subcontractors") will comply with, and are contractually obligated to comply with, all Federal Immigration laws and regulations that relate to its employees and A.R.S. §23-214(A) (hereinafter "Provider Immigration Warranty").

A breach of the Provider Immigration Warranty shall constitute a material breach of this Agreement and shall subject the Provider to penalties up to and including termination of this Agreement at the sole discretion of the City.

The City retains the legal right to inspect the papers of any Provider or Subcontractor employee who works on this Agreement to ensure that the Provider or Subcontractor is complying with the Provider Immigration Warranty. Provider agrees to assist the City in regard to any such inspections.

The City may, at its sole discretion, conduct random verification of the employment records of the Provider and any of subcontractors to ensure compliance with Provider's Immigration Warranty. Provider agrees to assist the City in regard to any random verifications performed.

The provisions of this Article must be included in any contract the Provider enters into with any and all of its subcontractors who provide services under this Agreement or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

8.11 Subcontractors. This Agreement or any portion thereof shall not be sub-contracted without the prior written approval of the City. No Subcontractor shall, under any circumstances, relieve Provider of its liability and obligation under this Agreement. The City shall deal through Provider and any Subcontractor shall be dealt with as a worker and representative of Provider. Provider assumes responsibility to the City for the proper performance of the work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between the City and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.

8.12 Waiver. No failure to enforce any condition or covenant of this Agreement by the City shall imply or constitute a waiver of the right of the City to insist upon performance of the condition or covenant, or of any other provision of this Agreement, nor shall any waiver by the City of any breach of any one or more conditions or covenants of this Agreement constitute a waiver of any succeeding or other breach under this Agreement.

9. DURATION

This Agreement shall become effective on and from the day and year executed by the parties, indicated below, and shall continue in force for an initial term of three (3) years, beginning April 1, 2014 through March 31, 2017, unless sooner terminated as provided above. Upon mutual agreement between the City and Provider, this Agreement may be renewed for a maximum of two (2) additional one (1) year terms, upon mutual agreement from both parties.

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City of Flagstaff

Provider

Kevin Burke, City Manager

Attest:

City Clerk

Approved as to form:

City Attorney

Date of Execution: _____



EXHIBIT A

CITY OF FLAGSTAFF 2014-31 MATERIALS TESTING SERVICES

TYPE OF TEST	ESTIMATED TOTAL NUMBER OF TESTS FOR CITY	UNIT COST OF TEST INCLUDING INCIDENTALS, OVERHEAD & PROFIT	TOTAL ESTIMATED COST
DENSITY - SOIL	2538	25	63450
DENSITY - AC	532	30	15960
PROCTOR	33	95	3135
GRADATION - SOILS	3	60	180
GRADATION - MA	30	60	1800
GRADATION - CHIPS	6	60	360
PLASTIC INDEX	40	55	2200
CYLINDERS	898	15	13470
CONCRETE BREAKS	874	15	13110
AIR CONTENT	173	15	2595
SLUMP	180	15	2700
AC CONTENT	73	75	5475
AC GRADATION	73	30	2190
AC MOISTURE	73	15	1095
MARSHAL PLUGS	136	95	12920
STABILITY & FLOW	142	95	13490
RICE	39	60	2340
AIR VOIDS	38	15	570
LA ABRASION	5	130	650
SAND EQUIVALENT	70	75	5250
	TOTAL ESTIMATED ANNUAL TESTING AMOUNT		\$162,940

- CONTINGENCY ALLOWANCE \$10,000.00
- STANDBY TIME (IF REQUIRED) \$62.00 / HOUR
SENIOR TECHNICIAN
- OVERTIME (IF REQUIRED) STRAIGHT TIME x 1.35

EXHIBIT B

SCOPE OF SERVICES

The City of Flagstaff (the "City") invites interested professionals to submit a written Statement of Qualifications (SOQ) for performing annual construction materials testing services for infrastructure improvements in and for the City of Flagstaff, Arizona. The contract would be for a minimum term of three years. Within the three-year term, the contract shall be subject to annual renewals contingent upon successful performance reviews, generally based upon the quality, technical accuracy, timely completion and coordination of all services provided under this contract.

Firms must submit a SOQ that clearly demonstrates the firm's applicable competence, qualifications and relevant experience with construction materials and testing including being able to demonstrate adequate resources for delivery of the required services.

The scope of services required is consistent with the City of Flagstaff Agreement for Materials Testing Services contract, which is attached as a reference document and will be posted on the City of Flagstaff website along with the RSOQ as a related document.

Additional conditions and services will generally include, but may not be limited to,

1. Equipment and Laboratory Criteria
 - a. Provision of a laboratory facility located in Flagstaff. A physical facility is preferred however, a mobile laboratory suited for all necessary testing may be considered.
 - b. All laboratory equipment shall be calibrated annually. Verification of calibration is required. Ongoing maintenance of equipment is required. The City reserves the right to inspect laboratory facilities at any time.
 - c. Nuclear densometers are required for determining field density, moisture content and oil content and shall be stored and operated at all times in strict adherence to Arizona radiation regulatory agency requirements.
2. Personnel Qualifications and Personnel Performance Criteria
 - a. City desires that field personnel have ACI certification, NICET and/or ATTI certifications.
 - b. Ability to maintain strict adherence to industry accepted testing procedures and requirements when conducting and reporting test results.
 - c. Field personnel are required to meet a one-hour maximum response time between various project locations.
 - d. Ability to perform critical tests and sampling for asphalt (e.g. Marshall plug, oil content, gradation, stability/flow and voids) and to report lab results to the assigned City Inspector within four (4) hours of taking the sample.
 - e. Ability to perform critical tests and sampling for soils and aggregate base course (e.g. proctor, sieve, plasticity index and gradation) following initial testing and to report lab results to the assigned City Inspector within four (4) hours of taking the sample.
 - f. Field personnel shall demonstrate having received safety training, competency in confined space entry, flagging and traffic control, trench excavations and general work zone safety
 - g. Materials testing field personnel shall be able to demonstrate the ability to ;
 - i. accept direction from the City's Construction Manager
 - ii. function as a team member
 - iii. provide excellent customer service in all situations that arise on a construction site
 - iv. perform their duties as an extension of City staff

- v. accept direction from City Inspectors as to frequency and location of tests and how to report failing tests to our customers
- vi. read construction plans and specifications
- vii. identify issues and to communicate their concerns to the City Inspector

3. Firms' Criteria

- a. All laboratory materials testing shall be conducted under the direct supervision of a Professional Engineer registered in the State of Arizona.
- b. Demonstrate that staff is skilled, knowledgeable and well trained in materials testing processes and protocols.
- c. Firms providing information in response to this RSOQ must be able to maintain a fully integrated training and quality control program, independently from the City.
- d. Materials testing services as provided by the private sector shall be a seamless extension of City staff performing quality assurance services on all projects permitted in the City right-of-way. These material testing services are not to be considered quality control services performed on behalf of the permitted contractor.
- e. Firm shall demonstrate their ability to perform testing accurately with attention to detail in both the laboratory and in the field.
- f. A minimum of two (2) materials testing field personnel shall be provided, solely dedicated to City projects from April 15 to December 15. The personnel shall be available to respond on an as need basis with a twenty-four (24) hour notice from December 15 through April 15.
- g. Firm must demonstrate the ability to adjust staffing level to accommodate fluctuations in workloads.
 - i. Regular attendance is a mandatory requirement of the service provided. Staff must be able to work weekends, holidays and night shifts.
- h. Demonstrate that field personnel have adequate construction site transportation, cell phones, necessary field testing equipment and safety clothing.
- i. Maintain accurate and complete records and reports
 - i. Submittal of test results to the City on a weekly basis

CITY COUNCIL REPORT
PUBLIC

DATE: 03/26/2014

TO: Mayor and Council

FROM: Amy Hagin, Senior Procurement Specialist

CC: Kevin Burke, Josh Copley, Jerene Watson, Rick Barrett

SUBJECT: Response to Mayor and Council Regarding the Procurement
Evaluation Process and Scoring Results

This report is in response to Mayor Nabours requesting additional information on the evaluation process and scoring results of the Request for statement of Qualifications (RSOQ) for the professional services for materials testing.

DISCUSSION

Brief Background Information: The qualifications-based selection process involves an evaluation and scoring of each Proposer's qualifications and relevant experience, as indicated in the RSOQ. A final list may be prepared for an interview process for further clarification and to gain a better understanding of the respective expertise, competence and capabilities of each firm. If interviews are elected to be conducted, the evaluation committee will rank the firms in order of preference based upon the criteria indicated in the RSOQ and agenda information provided to each firm. Interviews are to be evaluated and scored individually, and then tabulated with a weighted average by Procurement. Scores are tabulated with an aggregate total based on the initial written evaluated score as well as the interview evaluated score for each firm.

The qualifications-based selection process provides for accountability, ethics and impartiality. With accountability, the City practices procurement strategies to optimize value to stakeholders. With ethics, the City maintains consistency in all processes and actions. With impartiality, the City provides for an open, fair and non-discriminatory procurement process, and allows for sound professional judgment (evaluators) within established frameworks to balance competing interests among stakeholders.

Questions Pertaining to Process: The first question posed by Mayor Nabours pertained to eliminating the highest and lowest evaluation scores in a qualifications-based process. In eliminating the highest and lowest evaluations scores, the City would be voluntarily removing the impartiality and ethics factors

in the evaluation process. In essence, the City would be removing the efforts of two (2) evaluators whose evaluation holds an equal stake as the other evaluator's evaluations in an effort to discriminate against the highest and lowest scores. Procurement does not find eliminating the highest and lowest evaluation scores to be a fair and non-discriminatory process.

The second question posed by Mayor Nabours pertained to giving reason as to how an evaluator could have differing evaluation scores compared to other evaluators. This question focuses on the scoring results of the professional services for materials testing, where Evaluator #3 scored the second ranked firm eleven (11) points out of a possible twenty-five (25) points on the question and answer session of the interview.

In review of Evaluator #3's scores, Procurement does find consistency in how Evaluator #3 scored both firms interviewing; whereas, the scores provided are lower across the board compared to the other evaluators, and not just targeted at one firm.

In specifically reviewing Evaluator #3's score for the second ranked firm on the question and answer session of the interview, Evaluator #3's comments state that the second ranking firm did not answer the questions posed very well, inclusive of those in management for the firm, thus, providing the low score.

In conclusion, Procurement finds Evaluator #3's scores consistent providing both non-discrimination and impartiality to the evaluation process.

RECOMMENDATION / CONCLUSION

This report is for information only.

**CITY OF FLAGSTAFF
PURCHASING DIVISION
RSOQ #2014-31 MATERIALS TESTING SERVICES
INTERVIEWS**

SCORING TABULATION

Presentation - 25 Points Value			Not present
	ATL, Inc.	Speedie & Associates	
<i>Evaluator #1</i>	25	20	
<i>Evaluator #2</i>	24	21	
<i>Evaluator #3</i>	17	15	
<i>Evaluator #4</i>	22	22	
<i>Evaluator #5</i>	-	-	
<i>Subtotal:</i>	22	19.5	
<i>Criteria Ranking:</i>	1	2	
Question & Answer - 25 Points Value			Not present
	ATL, Inc.	Speedie & Associates	
<i>Evaluator #1</i>	24	21	
<i>Evaluator #2</i>	25	22	
<i>Evaluator #3</i>	20	11	
<i>Evaluator #4</i>	24	20	
<i>Evaluator #5</i>	-	-	
<i>Subtotal:</i>	23.25	18.5	
<i>Criteria Ranking:</i>	1	2	
TOTAL INTERVIEW SCORE:	45.25	38	
Total Criteria Ranking:	1	2	
RSOQ TOTAL SCORE	87.6	87.6	
AGGREGATE TOTAL SCORE	132.85	125.6	
Aggregate Criteria Ranking:	1	2	

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Paul Summerfelt, Wildland Fire Manager
Date: 03/24/2014
Meeting Date: 04/01/2014



TITLE:

Consideration and Approval of Contract: Western Bark Beetle Initiative (WBBi) grant from AZ State Forestry. *(State grant to treat for Bark Beetles).*

RECOMMENDED ACTION:

Approve the **WBBi** Grant Agreement with AZ State Forestry

Policy Decision or Reason for Action:

In Nov 2012, 74% of Flagstaff voters approved Forest Bond #405, now known as the **Flagstaff Watershed Protection Project (FWPP)**. The State Land on Observatory Mesa was identified as one of the target treatment areas. Fortunately, bark beetle preventative forest treatments are the same type of forest treatments required to reduce wildfire threat, improve forest health, and ensure forest resiliency and sustainability. In spring 2013, the City applied to AZ State Forestry for this grant. The goal was to conduct preventative forest treatments on 250 acres of forested State property on Observatory Mesa that were susceptible to attack by bark beetles. This request was not funded. In late fall 2013, AZ State Forestry informed the City that funding was now available. As the sale and transfer of the State Land parcels to the City was now pending with an expected closure in the near future, the State agreed to commit the funds but hold processing the Agreement until the process was completed. That land sale and transfer is now finalized, and the Agreement now ready for consideration.

Financial Impact:

The acreage was slated to be treated as part of the **FWPP**. The **WBBi** Grant is a 50-50 match grant (50% grant funds to be matched by 50% city monies and/or in-kind services). Thus, acceptance and utilization of the grant funds allows less bond dollars to be spent on these acres and thereby stretches available bond dollars toward necessary treatments on other acreages.

Connection to Council Goal:

1. Complete Rio de Flag – FWPP City/Dry Lake Hills related activities
10. Develop an ongoing budget process – FWPP expenditures and transparency
11. Effective governance – overall completion of FWPP.

Has There Been Previous Council Decision on This:

Not on this specific grant opportunity, but Council has previously approved and accepted numerous forest treatment grants from AZ State Forestry, was involved in the purchase of the Observatory Mesa Open Space parcels, and has been involved in the Forest Bond and **FWPP** process.

Options and Alternatives:

Four options exist: 1) **Approve** the grant Agreement, permitting forest treatment work to proceed; 2) **Revise** the Agreement and resubmit to AZ State Forestry as a precondition to forest treatments occurring;; 3) **Scrap** the grant Agreement and fund the forest treatment work entirely from bond funds; or 4) **Reject** the Agreement and the need to conduct any forest treatments on the property.

Background/History:

The **FWPP** is an innovative and unique method of treating forested lands at high risk from serious wildfire events. As far as is known, this is the first bond-funded program to address this issue in the country. As such, it has garnered a high level of interest at both the State and national level. Since the bond's passage in Nov 2012, some field operations have occurred, but much of the effort has been behind-the-scenes in the realms of planning, public outreach, development of agreements, and other support activities, including seeking other funds, all designed to permit efficient and effective forest treatments throughout the project area. The WBBF grant, although directed at preventing future bark beetle infestations, requires the same type of forest treatments as that needed to reduce wildfire threat.

Key Considerations:

Starting in 1999, Flagstaff Fire Dept began working with home and property owners in the Westridge and Northridge areas to reduce the wildfire threat on their property, a process that continues to this day. Beginning in 2003, and extending until 2005, a major bark beetle infestation occurred in-and-around the Flagstaff area. Tens-of-thousands of ponderosa and pinon pine were killed. The heaviest hit area in town was the Observatory Mesa area, particularly the slopes above Old Town and below Lowell Observatory. The forest conditions that permitted this rapid and destructive build-up of these insects persist in other areas of the Mesa today.

Expanded Financial Considerations:

The grant permits needed forest treatments to occur on 250 acres of city-owned property, at half the cost of what it would be otherwise to the **FWPP** bond fund. Approximately 1,900 remaining acres of the property also requires treatment, which is planned using **FWPP** bond funds: However, we intend to continue to seek additional outside funds that will help off-set some of the cost for some if not all these acres as well.

Community Benefits and Considerations:

Multiple community partners have been engaged in **FWPP**, including the **Greater Flagstaff Forests Partnership** (GFFP), **Friends of the Rio**, and NAU's **Ecological Restoration Institute** (ERI). The campaign to pass the bond also included the citizen-led "**Yes on 405**" group, the **Grand Canyon Trust**, and **The Nature Conservancy**. Treating the now City-owned Open Space areas adjacent to the Westridge and Northridge neighborhoods will reduce the wildfire threat not only in the Open Space area, but in those neighborhoods as well. In addition, such work will reduce the possibility of future insect epidemics in those areas as well.

Community Involvement:

Inform – Considerable effort has occurred in the adjacent neighborhoods to inform the owners of the wildfire threat and firewise actions they can undertake: this has led to the completion of much forest treatment work on the private lands.

Consult – Community members helped to shape the scope of the Forest Bond question. Activities planned in this area as a result of this grant, and **FWPP** bonds, are being developed in collaboration with other City staff, to include the Open Space Commission. In addition, the planned work is in accordance with the **Greater Flagstaff Area Community Wildfire Protection Plan**, adopted by City Council in 2005, and the City's **Wildland Urban Interface Code**, adopted by City Council in 2008.

Involve – In 2013, 15 separate public meetings, presentation, and/or field trips were conducted

concerning the **FWPP**. Between Feb-June 2014, another 15 such events are planned. Additional outreach into the immediately adjacent neighborhoods of Westridge and Northridge, and with community stakeholders, is planned before work begins. Firewood from cutting operations will be made available to the public.

Collaborate – Since Mar 2013, ten separate workshops have been held with various community members and groups to develop the soon-to-be completed **FWPP** Monitoring Plan, designed to provide accountability and documentation to the voters that what we said would occur as a result of the forest treatments actually is delivered. Flagstaff Fire Dept has also worked with the adjacent owners regarding access issues onto the then State-owned parcels from the neighborhood, as well as during wildfires on these parcels.

Empower - 74% of those who participated in the Nov 2012 election voted in favor of the project.

Attachments: WBBI Grant Agreement

Arizona State Forestry Grant Agreement No. WBB1 13-601
Western Bark Beetle Initiative Grant Program

This grant agreement ("Agreement") is entered into by and between the ("Grantee") Arizona State Forestry Division ("State Forestry" or "State") and ("Sub-grantee"), City of Flagstaff Fire Department (**DUNS #088302625**), pursuant to the Cooperative Forestry Assistance Act of 1978, Public Law 95-313, as amended; Food, Agriculture, Conservation, and Trade Act of 1990, as amended, Public Law 101-624.

I. PURPOSE OF AGREEMENT

State Forestry is a primary recipient of grant funds provided by the USDA Forest Service to assist in the advancement of forest resources management; forest insect and disease management, urban and community forestry, development and transfer of new and improved fire control technologies, organization of shared fire suppression resources, forestry resources planning, conservation of forest land, and achievement of a number of other goals for the use and protection of forest lands. This agreement is a sub-award of those federal grant funds authorized under Arizona Revised Statute 37-622.

The Catalog of Federal Domestic Assistance (CDFA) Number is **10.664, Cooperative Forestry Assistance**, U.S. Department of Agriculture, Forest Service.

II. SCOPE OF WORK

Compensation is contingent upon Sub-grantee fulfilling the Scope of Work and project commitments as identified in the Grant Application (Attachment A) and as amended by the approved Detailed Project Plan (Attachment B).

III. PROGRAMATIC CHANGES

Sub-grantee shall obtain prior approval for any changes to the scope of objectives of the approved project, key personnel, or transfer of substantive programmatic work to another party.

IV. TERM OF AGREEMENT

This Agreement shall be effective immediately upon signature by all parties and will terminate on **December 31, 2015** unless otherwise terminated or modified pursuant to the terms herein.

V. COMPENSATION AND MATCHING INVESTMENT

Grant funds may be utilized for up to **50%** of the total cost of this program.

A contribution by the Sub-grantee for an additional **Cost Share Match of 50%** of the total cost of the program is required (including contributions of third parties). Support documentation outlining project costs including cost share match is required.

Compensation under this agreement shall be on a reimbursement basis, shall not exceed the total eligible costs of the project, and total compensation (federal portion) **shall not exceed \$100,000.00**

Only costs for those project activities approved in (1) the initial award, or (2) approved modifications thereto, are allowable. All payments are contingent upon the availability of funds and reimbursement by the United States Department of Agriculture, Forest Service.

Reimbursement payments will be made to the Sub-grantee after State Forestry receives reimbursement from the USDA Forest Service, normally within ninety days of receipt of the reimbursement request and required documentation.

VI. ELIGIBLE COSTS

Eligible costs must be incurred during the Term of the Agreement, conform with the General Provisions of this Grant Agreement (Attachment C) and all other provisions identified herein, and be submitted to State Forestry along with detailed supporting documentation. This is a reimbursable grant program. Support documentation must show dates and amounts of all expenses (See Attachment D).

Purchase of Capital Equipment (equipment costing more than \$5,000 per unit price) is **NOT allowed** under this agreement.

This is an award of Federal financial assistance and is subject to the Office of Management and Budget (OMB) Circulars A-102 as implemented by USDA regulations 7CFR3015, 7CFR3016, 2CFR170, 2CFR225, 2CFR215 as implemented by USDA regulations 7CFR3019, and OMB Circular A-133 as implemented by USDA regulation 7CFR3052. All Federal and Sub-grantee matching/cost-share contributions are subject to all relevant OMB Circulars. All project expenditures are subject to the Single Audit act of 1984 and payments shall adhere to the Federal Cash Management Improvement Act (CMIA).

VII. ADMINISTRATIVE AND ACCOUNTING REQUIREMENTS

It shall be the sole responsibility of the Sub-grantee to establish and document both accounting and administrative control procedures for their organization. Such procedures shall be followed to ensure grant funds are being tracked and spent in accordance with all applicable laws and with the terms of the grant agreement/award. Sub-grantee accepts full liability for resources administered through the grant.

VIII. AUDIT REQUIREMENTS

SINGLE AUDIT ACT OF 1984: All project expenditures are subject to the Single Audit act of 1984 and all relevant Office of Management and Budget (OMB) Circulars including OMB Circular A-133 . Sub-grantees are subject to audit if their share of federal financial assistance is \$500,000 or more for a single fiscal year. Federal financial assistance includes reimbursements under this award and all other financial assistance originating from any agency of the federal government during the Sub-grantee's fiscal year. Sub-grantee will be required annually to report compliance with this requirement.

ARS 35-181.03. Sub-grantee must also comply with applicable ARS 35-181.03 provisions for financial and compliance audits.

In the event that an audit determines that unallowable costs have been charged to the grant and funds have been disbursed to the Sub-grantee, then the Sub-grantee accepts full liability and must pay back all costs incurred and deemed unallowable. Any audit involving a Federally-funded grant shall provide a copy of the audit report to the Federal Audit Clearinghouse managed by the Census Bureau within 30 days after receipt from auditor or nine months from the close of their fiscal year, whichever is earlier.

IX. PROCUREMENT REQUIREMENTS

All procurement activities shall be in compliance with Uniform Administrative Requirements applicable to the sub-recipient organization. For State and Local Governments, this includes OMB Circular A-102 as implemented by USDA regulations 7CFR3016. For Non-Profit Organizations and Institutions of Higher Education, this includes OMB Circular A-110 (2 CFR 215) as implemented by USDA regulations 7CFR3019. All Sub-grantees are responsible for developing, documenting, and adhering to their own established procurement activities that include both administrative and accounting controls.

X. REPORTING REQUIREMENTS

Sub-grantee shall monitor the performance of the grant activities to ensure that performance goals are being achieved. Sub-grantee shall provide detailed grant/project accomplishments in quarterly reports to State Forestry no later than 30 days after the end of each calendar quarter, or as requested by State Forestry. Performance reports shall follow the format identified in Attachment E or as may be revised by State Forestry. Reports will contain information on the following:

- A comparison of actual accomplishments to the goals established for the period and for the entire program or project.
- Output of the project that can be readily expressed in numbers, such as acres of forest treatment, number of citizens served, or other similar activities. A computation of cost per unit of output may be required where applicable.
- Reason(s) for delay if established goals were not met.
- Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

Financial/Reimbursement requests may be submitted quarterly or more often if necessary. Reimbursement requests shall follow the format as identified in Attachment E or as may be revised by State Forestry.

Financial/Reimbursement requests may be held for processing until quarterly accomplishment/performance reports are current.

A final accomplishment report with mapping, if required, and all financial/reimbursement requests and required documentation shall be provided at completion of the grant project, but no later than 30 days after end of grant term.

All accomplishment and financial reports shall be submitted to the State Forestry contact as identified below in Section XII (NOTICES)

Sub-grantee shall immediately notify State Forestry of developments that have a significant impact on the activities supported under this grant. Also, notification shall be given in case of problems, delays or adverse conditions that materially impair the ability to meet the objectives of the agreement. This notification shall include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.

Any change to the original grant application scope of work or approved detailed project plan must have prior written State approval. Incurring costs without prior written approval may result in loss of funds reimbursed.

XI. PRINCIPAL CONTACTS.

NOTE: Principal contact should be one contact person responsible for overseeing all elements of the grant project including but not limited to accounting, administrative and field portions of the project.

Each party certifies that the individuals listed below are authorized to act in their respective areas for matters related to this instrument.

Principal Sub-grantee Fiscal Contact:

Stacey Brechler-Knaggs, Grants Manager
211 West Aspen
Flagstaff, AZ 86001
928-213-2227
sknaggs@flagstaffaz.gov

Principal Sub-grantee Programmatic Contact:

Paul Summerfelt, Wildland Fire Management Officer
211 West Aspen
Flagstaff, AZ 86001
928-213-2509
psummerfelt@flagstaffaz.gov

Principal Arizona State Forestry Contact:

John Richardson, Forest Program Coordinator
1110 West Washington, Suite 100
Phoenix, Arizona 85007
602-771-1425
JohnRichardson@azsf.gov

XII. NOTICES

Any and all reports, notices, requests or demands given or made upon the parties hereto, pursuant to or in connection with this Agreement, unless otherwise noted, shall be delivered in person or sent by United States Mail, postage prepaid, or sent by e-mail to the parties at their respective addresses as set forth immediately below:

<u>STATE FORESTRY</u>	<u>SUB-GRANTEE</u>
John Richardson Forest Program Coordinator Arizona State Forestry Division 1110 West Washington, Suite 100 Phoenix, AZ 85007 JohnRichardson@azsf.gov	Paul Summerfelt Wildland Fire Management Officer City of Flagstaff 211 West Aspen Flagstaff, AZ 86001 PSummerfelt@flagstaffaz.gov

XIII. AWARD CLOSEOUT

Sub-grantee shall close out the grant within 30 days after expiration or notice of termination. If this award is closed out without audit, Arizona State Forestry and the U.S. Forest Service reserve the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

XIV. AUTHORITY

Sub-grantee shall have the legal authority to enter into this agreement and the institutional, managerial, and financial capability to ensure proper planning, management, accounting and completion of the project, which includes funds sufficient to pay the nonfederal share of project costs, when applicable.

XV. ATTACHMENTS

The following Attachments are part of this Agreement:

- A. Project Application
- B. Detailed Project Plan
- C. General Provisions
- D. Documentation of Expenses
- E. Quarterly Report and Invoice Format

Additional Certifications (require separate signatures):

- AD1048** - USDA Form AD-1048 Debarment Certification
- Lobbying** - USDA Lobbying Certification

XVI. IN WITNESS WHEREOF, the parties agree to execute this agreement as of the last date written below.

<u>STATE FORESTRY</u> Arizona State Forestry Division 1110 West Washington, Suite 100 Phoenix, AZ 85007	<u>ACCEPTED BY SUB-GRANTEE</u> City of Flagstaff Fire Department 211 West Aspen Flagstaff, AZ 86001
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Signature

Scott Hunt, Arizona State Forester

Date: _____

Date: _____

Signature

Print or Type Name

Date: _____

ATTACHMENT A

**Project Application
(Cover Sheet)**

Western Bark Beetle Initiative
2013 Grant Application-ASFD

FOR OFFICIAL USE ONLY	
Dollar Amount Requested:	\$100,000
Matching Share:	\$100,000

Applicant Information	
1	Applicant: City of Flagstaff Fire Department
	Contact Person: Paul Summerfelt
	Address: 211 W. Aspen
	City/Zip Code: Flagstaff AZ 86001
	Phone (Work/Cell): 928-213-2500 (w)
	Email: psummerfelt@flagstaffaz.gov
	Fax: 928-213-2599

Community At Risk Information			
2	Name of Project:	Ban the Bugs - Protecting Observatory Mesa	
	Community Name:	Flagstaff	
	County:	Coconino	Congressional District: 1
	Latitude (decimal degrees):	35.1457N	Longitude (decimal degrees): 111.6747W

Grant Contributors (Matching Share)								
(Applications will be disqualified if insufficient match is identified; federal dollars DO NOT qualify) Please specify each match contributor and the dollar amount of each contribution. Please DO NOT show grant requested funds in this table. This is for matching share only.								
3	Contributors: (Please specify)	City	GFFP	Others				TOTAL
	Dollars (Hard Match):	\$92,500	\$2,000	\$0	\$0	\$0	\$0	\$94,500
	In-Kind (Soft Match):	\$0	\$500	\$5,000	\$0	\$0	\$0	\$5,500
	TOTAL:	\$92,500	\$2,500	\$5,000	\$ 0	\$ 0	\$ 0	\$100,000

Total Project Expense (break down matching share totals from block three)					
4		Grant Share (\$ Amount Requested)	Match (from block three)		TOTAL
			Dollars	In-Kind	
	Personnel / Labor:	\$85,620	\$80,000	\$7,500	\$173,120
	Operating:	\$0	\$12,500	\$0	\$12,500
	Travel:	\$0	\$0	\$0	\$ 0
	Contractual Services:	\$0	\$0	\$0	\$ 0
	Equipment:	\$0	\$0	\$0	\$ 0
	Indirect Costs:	\$14,380	\$0	\$0	\$14,380
	TOTAL:	\$100,000	\$92,500	\$7,500	\$200,000

	Project Summary (check all that apply and answer related questions)		
	What is the duration of this project? (check one) <input type="checkbox"/> One Year <input checked="" type="checkbox"/> Two Years		
	Is this a new project? (check one) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
	Number of acres to be treated:	250	Estimated cost per acre: \$800.00
5	Number of communities directly affected by this project: 1		
	Information & Education <input checked="" type="checkbox"/>		
	Number of citizens to be reached:	5,000	
	Planning <input checked="" type="checkbox"/>		
	Number of residences affected:	250	

	Project Area Description	
	All information for the project should fit into the allotted character space provided below. Addendum may be submitted if more space is needed.	
6	<p>Provide a brief overview of the project and the project area.</p> <p>PROJECT OVERVIEW: Includes 250 acres of contiguous selective thinning of ponderosa pine within the Observatory Mesa Open Space area, on the western-edge of, and inside, the city. The site is within the Flagstaff Wildland Urban Interface Zone, sits above Thorpe Park, and is immediately adjacent to Lowell Observatory and the Westridge subdivision. Other nearby neighborhoods include Coconino Estates, Cheshire, and Linwood Estates.</p> <p>The area is immediately adjacent to the peak-activity zone of the city's 2003-05 bark beetle outbreak, and remains susceptible due to stocking levels, continuing drought, and emerging climate change trends. (The area, due to stand conditions, is also rated as a "High" wildfire threat: if left untreated, there is an increased likelihood of an insect problem in the surviving stand following a damaging fire, amplying negative impacts to visual quality, watershed health, and community well-being).</p> <p>PROJECT AREA: At 7,000 ft elevation and on the southern flank of the San Francisco Peaks, Flagstaff sits within the largest continuous ponderosa pine forest in the world. The proposed project site also is within the Flagstaff Watershed Protection Project (FWPP) area, a Nov 2012 voter approved bond to support forest treatments within the Rio de Flag watershed: the bond passed on a 3:1 margin, demonstrating widespread community support for forest treatments like that proposed on this parcel via this application..</p>	

	Scope of Work / Project Timeline	
	All information for the project should fit into the allotted character space provided below. Addendum may be submitted if more space is needed.	
7	<p>Provide a brief scope of work which clearly describes how grant funds will be spent: Types of treatments proposed, primary bark beetle(s) & host of concern & any information & education activities. (This should be more specific than the project description)</p> <p>The overall intent, per the attached Resource Management Plan, is to create clumpy-groupy conditions mimicing historcial southwestern ponderosa pine conditions, with an overall basal area (BA) range of between 60-90. The goal is to foster and create conditions where the vigor and health of the remaining pine trees is improved to the point they can withstand attacks of bark beetles, to include western pine, mountain pine, roundheaded pine, and Ips beetles.</p> <p>Emphasis will be on retention of larger trees, but pockets and areas of smaller, younger trees and reproduction will be left to ensure long-term sustainability and forest cover on the site. Other species within the project area (ex: pinon, fir, juniper, other) are rare, and will be retained for diversity. Snags will be retained for wildlife habitat if they do not pose a direct threat to any improvements. Following cutting/harvesting and removal of any wood products, slash will either be chipped and/or burned, depending upon location.</p> <p>Once grant work is completed, the City will undertake a regular program of maintenance, to include inspections, bark beetle removals, other cutting, and/or prescribed burning to ensure the benefits of the grant funded effort continue well-past the grant itself.</p>	

	<p>A major component of our effort will be a community-wide outreach effort to explain the current condition of the parcel, why we must act, what we plan to do (now and into the future), how it will be accomplished (to include by whom), and how such an effort fits into both the Flagstaff Watershed Protection Project and the overall goal of forest sustainability and community well-being. Particular emphasis will be focused upon the Westridge neighborhood as the work will be within sight of that development. We intend to include an education component on bark beetles (life cycle, purpose, threat, evidence of infestation, and preventative measures) as well.</p>
	<p>Provide a timeline for the project.</p> <p>We envision a two-year project, excluding any scattered and final slash disposal that may be required (and any follow-on maintenance work). Our schedule would be as follows:</p> <p>Winter/Spring 2014 – Engage City Parks Dept and Open Space Commission, Greater Flagstaff Forests Partnership (GFFP), City Council, Flagstaff Watershed Protection Project Work Teams (Planning, Implementation, and Communication), and others as appropriate, discussing plans, desired outcomes, concerns, and process.</p> <p>Spring 2014 – Finalize standards with NAU’s Ecological Restoration Institute, to include potential to engage students in monitoring efforts.</p> <p>Summer 2014 – Meet with Westridge property owners AND conduct a community field trip to discuss site conditions, forest ecology, and project plans.</p> <p>Summer 2014 – Spring 2016 – Conduct field operations (to include on-going student-led monitoring as needed). AND, as appropriate, publicize accomplishment and status via local media, field tours, and targeted outreach messaging.</p> <p>Summer 2016 – Complete work and finalize all reporting requirements.</p> <p>Quarterly (Life of Grant) – Complete and submit Status Reports, to include Actions Taken/Completed (and Planned next Qtr), Acres Completed, Pictures, and any other Significant Items.</p>

	<p>Interagency Collaboration</p>
8	<p>Specify the private, local, tribal, county, state, federal and/or non-governmental (501(C) (3) organizations that will contribute to or participate in the completion of this project. Describe briefly the contributions each partner will make (i.e. – donating time/equipment, funding, etc.).</p> <p>City Parks Dept, Open Space Commission, and other Key Publics and City Staff (In-Kind) – Focus will be toward awareness, understanding, and support, in order to assist with community messaging and outreach efforts.</p> <p>City Council (In-Kind) – Support and direction.</p> <p>Greater Flagstaff Forests Partnership (In-Kind and Dollars: 501-C-3) – Focus will be on vetting of plans, desired outcomes, solicitation of other funds to expand effort, community outreach efforts, and direct funding to support overall efforts.</p> <p>NAU’s Ecological Restoration Institute (In-Kind) – Focus will be on vetting of plans, desired outcomes, treatment standards, and process, to include engagement of student participation as appropriate.</p> <p>Flagstaff Watershed Protection Project Team (In-Kind: City, Coconino County, State Forestry, and US Forest Service) Focus on awareness, support, community outreach, stakeholder reporting, and external elected/appointed officials briefings, with emphasis on how this effort compliments and is part of, the overall FWPP itself.</p> <p>City’s Wildland Fire Management Staff (Dollars) – Focus on overall project administration and oversight, to include design, lay-out, training (as needed), enforcement of standards, wood removal, slash disposal, marketing (social media, web-site, publications, stories, etc), personnel management, and reporting.</p>

	<p>City's Wildland Fire Management Crew 1 (Dollars) – Exclusive focus on implementation of forest treatments, to include selective thinning and slash disposal.</p> <p>Volunteers (In-Kind) - Focus on wood removal, and other activities as appropriate to the individuals involved.</p> <p>Contractor/s (To be Paid for Services, if utilized) – Exclusive focus on implementation of forest treatments, to include selective thinning and slash disposal.</p>
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	<p align="center">Project Longevity / Maintenance</p>
9	<p>Clearly demonstrate how this project will remain effective over time.</p> <p>As indicated earlier, once grant work is completed, the City will undertake a regular program of maintenance, to include inspections, bark beetle removals, other cutting, and/or prescribed burning to ensure the benefits of the grant funded effort continue well-past the grant itself.</p> <p>This will be undertaken as part of our on-going Wildland Fire Management program, which includes all forest treatment efforts and bark beetle detection and removal efforts city-wide.</p> <p>Funding to engage in maintenance efforts will be from city general funds. As part of the recognized long-term maintenance needs of the Flagstaff Watershed Protection Project, discussions have occurred identifying not only the need for such funds, but also a potential, and accepted, method to generate such funds: a user fee attached to city customer utility bills. A recent "Willingness to Pay" study completed by NAU prior to last years election (which saw the FWPP pass by a 3:1 margin) showed a community willingness to pay up to \$4.50 per month per customer to support such maintenance work, well above the amount anticipated that would be required on an annual basis.</p> <p>Based upon the timeline for work within the FWPP, including this project, maintenance funds would not be required for 5-7 years following initial treatments. Collection of these user fees is expected to begin 3-5 years hence.</p>

ATTACHMENT B
(Cover Sheet)

Detailed Project Plan – Subject to State Approval
(Include specific planned accomplishments, detailed project budget, and time line)

Detailed Work Plan

Flagstaff Fire Department - *Ban the Bugs: Protecting Observatory Mesa*

SCOPE:

Narrative Overview - Flagstaff sits within the largest continuous ponderosa pine forest in the world. A 2003 report identified Flagstaff as the #1 Wildfire Threatened community within AZ (due largely to overly-dense vegetation, a prime ingredient to the outbreak of insect epidemics). Between 2003 and 2005, the Flagstaff area did experience a severe and widespread bark beetle outbreak which resulted in thousands of trees being killed.

In 2012, City voters approved a \$10 million bond to plan and conduct forest treatments in two key community watersheds. The *Flagstaff Watershed Protection Project* (FWPP) is designed to treat upwards of 10,000 acres, primarily outside the City but on the Coconino National Forest. The work to be undertaken by this grant directly compliments FWPP, by enlarging the overall treated area.

In late 2013, the City purchased roughly 2,200 acres of State Trust Land as Open Space. Located on Observatory Mesa, the four adjacent parcels are on the west side of town. The vulnerability to both insect and fire damage for this site is well-known and understood, as is the need to conduct forest treatments to reduce those threats. We take our commitment to forest health, forest sustainability, and community well-being seriously. Fortunately, achieving Bark Beetle prevention standards also reduces our wildfire threat as well.

Project Tasks/Components – Staff from the Wildland Fire Management Division of the Flagstaff Fire Dept (FFD) will be responsible for planning and management, to include site set-up, marking, cutting, debris disposal, administration, and reporting for all grant-funded operations. Field work will largely be accomplished by full-time and seasonal Fire Dept crews, but will be augmented, where appropriate and necessary, by volunteers, staff and students from Northern AZ University's School of Forestry and/or Ecological Restoration Institute (NAU), and members of the Greater Flagstaff Forests Partnership (GFFP).

Outcomes - The overall goal is to reduce/eliminate excessive and overly-dense natural fuels, to a maximum Basal Area (BA) of 70, thereby lowering the risk of future bark beetle infestations. Specifically, we intend to complete 250 acres of selective tree thinning and debris disposal. To facilitate this work, we will conduct an active and on-going outreach effort toward adjacent neighborhoods and individual stakeholders, all interested in the long-term management of these parcels.

SCHEDULE:***Project Deliverables -***

<u>Year</u>	<u>Qtr</u>	<u>Activity</u>	<u>Reporting</u>
2014	1 st	<ul style="list-style-type: none"> • Finalize Agreement with AZ State Forestry (ASF) 	
	2 nd	<ul style="list-style-type: none"> • Work with City Open Space Commission (and others as needed), as well as develop operational plans, in preparation of the initiation of forest treatments; • Notify adjacent neighborhoods and interested stakeholders of planned activities; and • Work with PD and Open Space Director to gate and secure west access point 	<ul style="list-style-type: none"> • Qtr report to ASF
	3 rd	<ul style="list-style-type: none"> • Mark sites as needed; • Initiate thinning operations (goal of 50 acres) • Monitor on-going & completed work; • Modify annual AZ Dept of Environmental Quality (ADEQ) Burn Registry to include debris disposal (pile burning) from this project; and • Prepare necessary Burn Plan(s) 	<ul style="list-style-type: none"> • Qtr report to ASF
	4 th	<ul style="list-style-type: none"> • Continue thinning operations if conditions permit (goal of 25 acres); • Provide project status update and outlook to City Open Space Commission, neighbors, and stakeholders; • Monitor on-going & completed work; and • Burn debris piles as weather permits 	<ul style="list-style-type: none"> • Qtr report to ASF
2015	1 st	<ul style="list-style-type: none"> • Continue thinning operations if conditions permit (goal of 25 acres); • Monitor on-going & completed work; • Burn debris piles as weather permits; and • Include area in annual ADEQ Burn Registry 	<ul style="list-style-type: none"> • Qtr report to ASF
	2 nd	<ul style="list-style-type: none"> • Continue thinning operations (goal of 25 acres); and • Monitor on-going & completed work 	<ul style="list-style-type: none"> • Qtr report to ASF
	3 rd	<ul style="list-style-type: none"> • Continue thinning operations (goal of 75 acres); and • Monitor on-going & completed work 	<ul style="list-style-type: none"> • Qtr report to ASF
	4 th	<ul style="list-style-type: none"> • Continue thinning operations (goal of 50 acres) • Monitor on-going & completed work; • Provide project status update and outlook to City Open Space Commission, neighbors, and stakeholders; and • Close-out project 	<ul style="list-style-type: none"> • Qtr report to ASF • Final Report to ASF

Project Support -

<u>Year</u>	<u>Qtr</u>	<u>Activity</u>
2014	1 st	<ul style="list-style-type: none"> • Brief City Council and key cooperators/partners; and • Advertise, interview, and hire summer seasonal crew
	2 nd	<ul style="list-style-type: none"> • Publicize via Dept's Web Page and Social Media networks; and • Train summer seasonal crew and initiate work
	3 rd	<ul style="list-style-type: none"> • Engage volunteers where applicable; • Conduct public field tour; and • Publicize via Dept's Web Page and Social Media networks
	4 th	<ul style="list-style-type: none"> • Host firewood give-a-way(s); and • Advertise, interview, and hire winter seasonal crew
2015	1 st	<ul style="list-style-type: none"> • Brief City Council and key cooperators/partners; and • Advertise, interview, and hire summer seasonal crew
	2 nd	<ul style="list-style-type: none"> • Publicize via Dept's Web Page and Social Media networks; and • Train summer seasonal crew and initiate work
	3 rd	<ul style="list-style-type: none"> • Engage volunteers where applicable; and • Publicize via Dept's Web Page and Social Media networks Host field tour of project sites for key partners and community residents
	4 th	<ul style="list-style-type: none"> • Host firewood give-a-way(s); and • Advertise, interview, and hire winter seasonal crew

BUDGET:

Summary - Total project is for \$200,000, with 50% (\$100,000) coming from this grant; the remaining required match (\$100,000) will be provided by a combination of "hard" and "soft" funding from the City and Others as shown below:

TOTAL PROJECT EXPENSES

<u>DETAIL</u>	<u>GRANT \$</u>	<u>MATCH</u>		<u>TOTAL</u>
		<i><u>Hard \$</u></i>	<i><u>In-Kind \$</u></i>	
Labor	\$85,620.00	\$80,000.00	\$ 7,500.00	\$173,120.00
Supplies	\$ 0.00	\$12,500.00	\$ 0.00	\$ 12,500.00
In-Direct	\$14,380.00			\$ 14,380.00
TOTAL	\$100,000.00	\$92,500.00	\$ 7,500.00	\$200,000.00

MATCH SOURCES

<u>Who</u>	<u>City</u>	<u>Others</u>	<u>TOTAL</u>
Hard \$	\$92,500.00	\$ 0.00	\$ 92,500.00
Soft (In-Kind) \$	\$ 0.00	\$ 7,500.00	\$ 7,500.00
TOTAL	\$92,500.00	\$ 7,500.00	\$100,000.00

Explanation of Budget Items -

- Labor:
 - 1) City – FFD full-time and seasonal crew members;
 - 2) Others - "Sweat equity" effort from volunteers, NAU, and GFFP. Other entities may be engaged as well as conditions permit and opportunities arise.

All work will be coordinated with agency partners and the FWPP effort, and in accordance with any specific grant standards, the Greater Flagstaff Community Wildfire Protection Plan (CWPP), the City's WUI Code and Land Development Code, and the Fire Dept's City-wide Forest Stewardship Plan and permit process.

- Equipment: No capital items will be purchased.
- Supplies: Chain saw parts, fuel, oil, needed safety equipment, tree marking paint, flagging, small hand tools, drip torch parts and/or fuses, etc, all related directly to project accomplishment.
- Contractual: None anticipated.

CONCLUSION: Completion of the forest treatments detailed in this plan will reduce the threat of future bark beetle epidemics, improve forest health, boost our FireWise program, protect key infrastructure, neighborhoods, and natural resources, and enhance collaborative efforts with our many partners.

For more information on our program, visit www.flagstaffaz.gov/wildlandfire

For more information on the FWPP, visit www.flagstaffwatershedprotection.org

ATTACHMENT C

General Provisions

COVENANT AGAINST CONTINGENT FEES

The Sub-grantee warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Sub-grantee, to solicit or secure this agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this agreement. For breach or violation of this warranty, the State shall have the right to annul this agreement without liability, or, in its discretion to deduct from the agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

MODIFICATIONS

Modifications within the scope of this award shall only be made by mutual consent of both parties, by issuance of a written amendment signed and dated by all properly authorized signatory officials prior to any changes being performed. Requests for modification shall be made, in writing, at least thirty (30) days prior to the implementation of the requested change. Any change to the original grant application scope of work or approved detailed project plan must have prior written State approval. Incurring costs without prior written approval may result in loss of funds reimbursed.

EXTENSIONS

Timely completion of this project is required. If this agreement is extended by mutual written consent of the parties, all terms, conditions and provisions of the original agreement shall remain in full force and effect and apply during any extension period. Any extension of time granted shall not constitute or operate as a waiver by the State of any of its rights herein. Extensions will only be considered and/or made if the Sub-grantee has demonstrated reasonable efforts to complete the grant project as defined in the original detailed project plan and has a clear and specific plan for completion of the project within the extended time period.

RESPONSIBILITY FOR CLAIMS AND LIABILITIES

The Sub-grantee agrees to assume all risk of loss to indemnify and hold the State, its officers, agents and employees, harmless from and against any and all liabilities, demands, claims, suites, losses, damages causes or action, fines or judgments, including costs, attorney's and witnesses' fees and expenses incident thereto, for injuries or death to persons and for loss of, damage to, theft of or destruction of any property including loss of use thereof arising out of or in connection with the performance of duties required by agreement, all whether or not authorized or agreed to by Sub-grantee.

RETENTION OF RECORDS

The Sub-grantee and any subcontractor shall maintain and store all documents, papers, accounting records; other evidence pertaining to costs incurred for this work, and shall make all such materials available at any reasonable time during the term of work and for five (5) years from the date of final payment to the Sub-grantee. The Sub-grantee may be required to provide such records as necessary to any auditing agent. Inability to provide such records may result in unallowable costs to the grant and any funds disbursed to the Sub-grantee may have to be paid back to the State and/or Federal government.

COMPLIANCE WITH ARIZONA EXECUTIVE ORDERS 75-5 and 2009-09

The Sub-grantee shall comply with Arizona Executive Order 75-5 and as amended by Arizona Executive Order 2009-09 relating to non-discrimination in employment by government contractors and subcontractors. These regulations are herein incorporated by reference and made a part of this agreement.

ADMINISTRATIVE AND ACCOUNTING REQUIREMENTS

It is the Sub-grantee's responsibility to develop, document, administer and manage the correct accounting and administrative procedures for managing the grant in accordance with all applicable Federal and State laws.

Sub-grantee is subject to the following administrative requirements and cost principles based on the sub-grantee organization's structure:

Grantee Structure	Administrative Requirements	Cost Principles
Non-Profit Organization	OMB Circular A-110 (2 CFR 215 / 7CFR3019)	2 CFR 230 (OMB A-122)
Local and Tribal Governments	State and Federal laws, regulations	2 CFR 225 (OMB A-87)
State Agencies	State and Federal laws, regulations	2 CFR 225 (OMB A-87)
Universities	OMB Circular A-110 (2 CFR 215 / 7CFR3019)	2 CFR 220 (OMB A-21)
CFR (Code of Federal Regulations) – www.gpoaccess.gov/cfr/ OMB (Office of Management and Budget) - www.whitehouse.gov/omb/grants If grantee needs assistance in obtaining any of these documents in electronic or printed form, please contact your Arizona State Forestry representative.		

If any program income is generated as a result of this grant/agreement, the income earned during the term of this agreement shall be applied using the deductive method as described in 7CFR 3016.25 and 3019.24; the deductive alternative is the preferred method, unless specifically authorized by the Signatory Official. Costs incident to the generation of program income may be deducted from gross income to determine program income provided these costs have not been charged to the award/agreement and they comply with the applicable Cost Principles.

FREEDOM OF INFORMATION ACT

Public access to grant or agreement records shall not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to "Freedom of Information" regulations (5 U.S.C. 552).

MEMBERS OF U.S. CONGRESS

Pursuant to 41 U.S.C. 22, no United States member of, or United States delegate to, Congress shall be admitted to any share or part of this award, or benefit that may arise there from, either directly or indirectly.

TERMINATION FOR CONVENIENCE

The Office of the State Forester, by written notice, may terminate this contract, in whole or in part, when it is deemed in the best interest of the State. If this agreement is so terminated, Sub-grantee will be compensated for work performed up to the time of the termination notification. In no event shall payment for such costs exceed the current grant amount.

TERMINATION BY MUTUAL AGREEMENT

This award may be terminated, in whole or part, as follows:

- When the State and Sub-grantee agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.
- By thirty (30) days written notification by the Sub-grantee to the State setting forth the reasons of termination, effective date, and in the case of partial termination, the portion to be terminated.
- If, in the case of a partial termination, the State determines that the remaining portion of the award will not accomplish the purpose for which the award was made, the State may terminate the award in its entirety.

Upon termination of an award, the Sub-grantee shall not incur any new obligations for the terminated portion of the award after the effective date, and shall cancel as many outstanding obligations as possible. The State shall allow full credit to the Sub-grantee for the United States Federal share of the non-cancelable obligations properly incurred by the Sub-grantee up to the effective date of termination. Excess funds shall be refunded within sixty (60) days after the effective date of termination.

CANCELLATION FOR CONFLICT OF INTEREST

Pursuant to A.R.S. §38-511, the state, its political subdivisions or any department or agency of either may, within three years after its execution, cancel any contract, without penalty or further obligation, made by the state, its political subdivisions, or any of the departments or agencies of either if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the state, its political subdivisions or any of the departments or agencies of either is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

FEDERAL IMMIGRATION AND NATIONALITY ACT

By entering into the Agreement, the Sub-grantee warrants compliance with the Federal Immigration and Nationality Act (FINA) and all other Federal immigration laws and regulations related to the immigration status of its employees. The Sub-grantee shall obtain statements from its contractors certifying compliance and shall furnish the statements to the Procurement Officer upon request. These warranties shall remain in effect through the term of the Contract. The Contractor and its subcontractors shall also maintain Employment Eligibility Verification forms (I-9) as required by the U.S. Department of Labor's Immigration and Control Act, for all employees performing work under the Grant. I-9 forms are available for download at USCIS.GOV.

The State may request verification of compliance for any Sub-grantee, contractor or subcontractor performing work under the Grant. Should the State suspect or find that the Sub-grantee or any of its contractors are not in compliance, the State may pursue any and all remedies allowed by law, including, but not limited to: suspension of work, termination of the Agreement for default, and suspension and/or debarment of the Sub-grantee or Contractor. All costs necessary to verify compliance are the responsibility of the Sub-grantee. The parties agree to comply with A.R.S. §41-4401, the provisions of which are hereby incorporated.

ARBITRATION

To the extent required by A.R.S. §12-1518, the parties agree to use arbitration, after exhausting applicable administrative review, to resolve disputes arising out of this agreement.

ANTITRUST VIOLATIONS

The Sub-grantee and the State recognize that in actual economic practice overcharges resulting from antitrust violations are in fact borne by the purchaser or ultimate user. Therefore, Sub-grantee acting as a vendor, hereby assigns to State any and all claims for such overcharges.

SUSPENSION OR DEBARMENT

Submittal of an offer or execution of a contract shall attest that the sub-grantee or contractor is not currently suspended or debarred. If the Sub-grantee or any of its contractors become suspended or debarred, the Sub-grantee shall immediately notify the State. The State may, by written notice to the Sub-grantee, immediately terminate this Agreement if the State determines that the Sub-grantee or their contractors have been debarred, suspended or otherwise lawfully prohibited from participating in any public procurement activity, including but not limited to, being disapproved as a subcontractor of any public procurement unit or other governmental body.

CONTRACTS AND SUBAWARDS TO DEBARRED AND SUSPENDED PARTIES

Pursuant to Code of Federal Regulations 7CFR 3016 and 7CFR 3017, grantees and subgrantees must not make an award or permit any award (subgrant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension". By entering into this agreement sub-grantee agrees to comply with all relevant codes including 7CFR part 3017, subpart C, "Responsibilities of Participants Regarding Transactions". When entering into a covered transaction with another person at the next lower tier, sub-grantee must verify that the person with whom you intend to do business is not excluded or disqualified. You do this by:

- (a) Checking the Excluded Parties List System (EPLS) – www.epls.gov or System for Award Management (SAM) – www.sam.gov
- (b) Collecting a certification from that person if allowed
- (c) Adding a clause or condition to the covered transaction with that person.

TITLE VI of CIVIL RIGHTS ACT of 1964

Sub-grantee agrees to comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352, 42 U.S.C. 200d). In accordance with Title VI of that Act, no person in the United States shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance and Sub-grantee will immediately take any measures necessary to effectuate this agreement.

UNIVERSAL IDENTIFIER REQUIREMENTS

Unless exempted from this requirement under 2CFR 25.110, Sub-grantee agrees to provide a DUNS number to State Forestry prior to award, and to maintain all related information through the full term of this agreement. A *Data Universal Numbering System (DUNS) Number* is a nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).

GOVERNING LAW

This AGREEMENT is made under, and is to be construed in accordance with, the laws of the State of Arizona.

PUBLICATION REQUIREMENTS

A. ACKNOWLEDGEMENT IN PUBLICATIONS. Sub-grantee shall acknowledge Arizona State Forestry Division and U.S. Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this award.

B. NONDISCRIMINATION STATEMENT IN PUBLICATIONS. Sub-grantee shall include the following statement, in full, in any printed, audiovisual material, or electronic media for public distribution developed or printed with any Federal funding.

"In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited basis apply to all programs.)

To file a complaint of discrimination, write USDA, director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer."

If the material is too small to permit the full statement to be included, the material must, at minimum, include the following statement, in print size no smaller than the text: *"This institution is an equal opportunity provider."*

C. COPYRIGHTS. No original text or graphics produced and submitted by the U.S. Forest Service shall be copyrighted. The U.S. Forest Service reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use the work for federal government purposes. This right shall be transferred to any sub agreements or subcontracts. This provision includes the copyright in any work developed by Sub-grantee under this agreement. And any right of copyright to which Sub-grantee purchases ownership with any federal contributions.

REPORTING OF SUBRECIPIENT EXECUTIVES

Unless exempt from this requirement of 2CFR 170, Sub-grantee agrees to report the names and total compensation of each of the sub-grantee's five most highly compensated executives for the sub-grantee's preceding completed fiscal year if:

1. in the sub-grantee's preceding fiscal year, the sub-grantee received—
 - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
2. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

TRAFFICKING IN PERSONS.

Section 106 of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), include provisions applicable to federal support recipients. By entering into this agreement, you agree to terms set forth in the primary award from the US Forest Service as documented below. This Agreement may be unilaterally terminated, without penalty, if a subrecipient is determined to have violated an applicable prohibition in this award term. (See 22 U.S.C. 7104 and 2CFR175.25 for more details)

A. Provisions applicable to a Recipient that is a private entity.

1. You as the Recipient, your employees, subrecipients under this award, and subrecipients' employees may not-
 - (i) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;

- (ii) Procure a commercial sex act during the period of time that the award is in effect; or
- (iii) Use forced labor in the performance of the award or subawards under the award.

2. This award may be unilaterally terminated, without penalty, if you or a subrecipient that is a private entity -

- (i) Is determined to have violated a prohibition in paragraph A.1 of this award term; or
- (ii) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph A.1 of this award term through conduct that is either-
 - a. Associated with performance under this award; or
 - b. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR 417.

B. Provision applicable to a recipient other than a private entity. This award may be unilaterally terminated, without penalty, if a subrecipient:

- 1. Is determined to have violated an applicable prohibition in paragraph A.1 of this award term; or
- 2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph A.1 of this award term through conduct that is either-
 - (i) Associated with performance under this award; or
 - (ii) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement)," as implemented at 2 CFR 417.

C. Provisions applicable to any recipient.

- 1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph A.1 of this award term.
- 2. Our right to terminate unilaterally that is described in paragraph A.2 or B of this section:
 - (1) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - (2) Is in addition to all other remedies for noncompliance that are available to us under this award.
- 3. You must include the requirements of paragraph A.1 of this award term in any subaward you make to a private entity.

D. Definitions. For purposes of this award term:

- 1. "Employee" means either:
 - (1) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

- (2) Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
- 2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- 3. "Private entity":
 - (1) Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
 - (2) Includes:
 - i. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
 - ii. A for-profit organization.
- 4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

DRUG-FREE WORKPLACE

Compliance with the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D, as amended) requires that all organizations receiving grants from any federal agency agree to maintain a drug-free workplace.

INVALIDITY OF PART OF THIS AGREEMENT

The parties agree that should any part of this AGREEMENT be held to be invalid or void, the remainder of the AGREEMENT shall remain in full force and effect and shall be binding upon the parties.

COUNTERPARTS

This AGREEMENT may be executed in any number of duplicate originals, photocopies or facsimiles, all of which (once each party has executed at least one such duplicate original, photocopy, or facsimile) will constitute one and the same document.

INTERPRETATION

This AGREEMENT is not to be construed or interpreted for or against either of the parties on the grounds of sole or primary authorship or draftsmanship.

PARAGRAPH HEADINGS

The paragraph headings in this AGREEMENT are for convenience of reference only and do not define, limit, enlarge, or otherwise affect the scope, construction, or interpretation of this AGREEMENT or any of its provisions.

ENTIRE AGREEMENT

This AGREEMENT contains the entire agreement and understanding of the parties hereto. There are no representations or provisions other than those contained herein, and this AGREEMENT supersedes all prior agreements between the parties, whether written or oral, pertaining to the same subject matter of this AGREEMENT.

ATTACHMENT D

Grant Reimbursement and Documentation Requirements

Arizona State Forestry grants are federally funded and are based on reimbursement for actual costs incurred. Sub-grantees are typically required to provide a portion of the total project cost as MATCH contribution to show local investment in the project or program. Match investment must not originate from a federal source and cannot be used as a match for any other federal cost-share program. Specific match amount is identified in each grant agreement. All costs and match should conform to the approved project plan and budget contained in the grant agreement – and all reimbursements are subject to Arizona State Forestry approval. All project expenses must meet the applicable Cost Principles (2CFR220, 2CFR225, 2CFR230).

Only project expenses incurred during the term of the signed grant agreement are eligible. (See Term of Agreement)

All documentation submitted for reimbursement must have the correct project name and/or State Forestry grant number, date work was completed, and proof of payment from the Sub-grantee.

All reimbursements to Sub-grantees shall be calculated from the “Grant Reimbursement Form”. By signing the form, the Sub-grantee assumes full and implied responsibility for all grant costs incurred and submitted on the form. By signature, the Sub-grantee accepts full liability that the work and costs incurred were in accordance with the agreed scope of work and/or approved detailed project plan and in accordance with all applicable Federal and State laws. By signing the “Grant Reimbursement Form”, the Sub-grantee is claiming that costs were incurred following the established procurement process for its own organization and that their process is documented, administered and managed with the correct accounting and administrative procedures and is in accordance with all applicable Federal and State laws.

INELIGIBLE COSTS – Any expenses submitted for reimbursement that are not properly documented shall not qualify for reimbursement. It shall be the Sub-grantees sole responsibility to submit the required and accurate support documentation for all project costs. In the event an audit determines that ineligible costs were charged to the project, the Sub-grantee accepts full liability for such costs.

- Expenses not included in an approved project plan or are unnecessary for the completion of the project are ineligible for reimbursement or as match.
- NO FOOD or BEVERAGE purchases or donations are eligible for reimbursement or as match, unless included in the project plan as budgeted travel costs, and pre-approved by State.
- NO purchase of equipment or supplies for individuals are eligible for reimbursement or as match. (though purchase of supplies and small equipment by the Sub-grantee organizations for ongoing community use may be eligible)
- Poorly documented match or volunteer hours with insufficient support documentation will not count towards the required match. It is the Sub-grantees responsibility to keep all project/grant records pertaining to matching requirements. In the event an audit determines that ineligible match was credited to the project, the Sub-grantee accepts full liability for such costs

ATTACHMENT D

Grant Reimbursement and Documentation Requirements

REIMBURSABLE PROJECT EXPENSES – are direct, out-of-pocket expenditures for eligible project activities that are supported by paid invoices, cancelled checks, signed receipts, or official payroll records. Examples include:

Labor- may include paid staff, contracted labor, or documented reimbursement from Sub-grantee to others for services. Related expenses such as employee benefits or required travel costs are also eligible if properly documented.

- All staff/labor hours must be accompanied by an employee time sheet detailing the hours worked on the grant project. The time sheet must clearly have the State grant ID number, an employee signature, and the dates work hours were contributed towards the grant. A supervisor's approval signature should also be included. Note, for auditing purposes, an auditor will most likely want to see all hours worked in addition to those charged to the grant.
- Required documentation can include payment receipts, timesheets, payroll records, job sheets, cancelled checks, or signed letters detailing paid staff time, dates, and services or work provided.

Supplies - may include operating supplies, office supplies, and small equipment purchased by the Sub-grantee and necessary for the completion of the project.

- Required documentation can include payment receipts, cancelled checks, or official accounting records detailing expenses and goods and service provided.

Equipment Purchases (small) – small equipment necessary for the completion of the project may be purchased by the Sub-grantee organization if included in the approved project plan and budget. Purchases of equipment or supplies for individuals is not eligible. Purchase of necessary equipment totaling less than \$5,000 will be considered as supplies (above).

- Required documentation will include purchase receipts detailing costs and equipment details.

Equipment Purchases (large) - Any single piece of capital equipment costing more than \$5,000 must be included in the original project plan and preapproved. Because funding originates from the federal government, they may retain an ongoing vested ownership in the equipment. Additional details will be provided for approved purchases. If an audit determines that excessive equipment was purchased, the Sub-grantee accepts full liability for cost reimbursement back to the State/Federal government. Please limit your liability by purchasing only items listed in the original grant application and detailed project plan. Please only purchase what is necessary to complete the specific grant/project approved.

- Required documentation will include purchase receipts detailing costs and equipment details.

Equipment Rental – Rental of equipment necessary for completion of the project may be reimbursed if included in the approved project plan and budget.

- Required documentation will include rental receipts detailing costs, dates of use, and equipment details.

Contracted Services – Contracting for services from outside organizations or businesses is permitted if included in the approved project plan and budget. Such services could include contracted fuels crews, arborists, trucking, waste disposal, and other costs.

- Required documentation will include receipts detailing costs, dates and details of services provided.

Equipment Operating Costs - Operating costs for owned, rented, or donated equipment may be permitted if included in the project plan and properly documented. Methods for cost determination must be specifically documented and approved. Use of Sub-grantee owned equipment may be charged to the grant if prior approval is granted. A Sub-grantee may submit a rate agreement that is typical of rate charges established for all agencies utilizing the equipment including their own. Under no circumstances shall the grant be charged for use of equipment purchased with Federal funds, beyond operating costs.

- Required documentation can include receipts detailing costs, dates and details of equipment usage, payment receipts, mileage logs, shift tickets, etc. Any operating costs that are not paid for directly and do not have corresponding payment receipts, must be specifically documented as to method of cost determination.

ATTACHMENT D

Grant Reimbursement and Documentation Requirements

ELIGIBLE MATCH – All grants require some level of MATCH investment from the Sub-grantee organization. Matching investment may only be included if goods or services are provided or paid for during the term of the agreement and are necessary for the completion of the project. The matching investment may be in the form of cash and/or in-kind contributions. The Sub-grantee share (match) cannot originate from a federal source and must not be used as a match for any other federal cost-share program. As with reimbursable costs, eligible match expenses only include those that are reasonable and necessary for the completion of the grant-funded program or project and must meet the applicable Cost Principles (2CFR220, 2CFR225, 2CFR230).

Matching investments will not be directly reimbursed.

Examples of possible match include:

Cash - Matching investment can include actual costs as documented above.

- Required documentation will include payment receipts, cancelled checks, or official accounting records detailing expenses and related goods and service provided.

In-kind Contributions - include on-hand supplies, third party donations of supplies or equipment, the value of professional services provided at the professional rate, or time spent by employees on eligible project activities.

- An in-kind contribution of goods or services from another business or organization may be counted as community match with proper documentation. This typically consists of a letter on the donating organization's letterhead, signed by the proper person and showing the amount and type of donation. Property or use thereof shall be assigned a fair market value per applicable Cost Principles and should include a letter of documentation from the donating party.

Volunteer - Volunteer labor hours shall conform to standard documented operating procedures for the Sub-grantee organization with established pay rates.

- Required documentation for volunteers will include signed time logs/sign-in sheets with volunteer name, date, time, place, and type of volunteer service provided. Volunteer time may be valued at the local market rate for equivalent work (children at minimum wage). Hourly rates exceeding \$20 per hour will require specific support documentation for justification and approval. If you use consultants, forestry professionals, planners, etc., who donate their professional services, appropriate hourly rates may be documented in a letter from the individual or their organization.

ATTACHMENT E

Quarterly Performance Report

Year: _____

Quarter ending (circle one): Mar 31 June 30 Sept 30 Dec 31

Project Name: _____ Grant No: _____

Sub-grantee Name & Address: _____

Name of Person Filing This Report: _____

(Attach additional pages as needed)

Narrative Report: (List activity for this quarter. Include appropriate comments regarding expenditures for employees or equipment, volunteers, donated time or materials etc.)

Project Objectives Accomplishment: (During this reporting period, what progress has been made toward meeting the project objectives stated in the Detailed Project Plan?)

- 1)
- 2)
- 3)

Measurement Criteria: (What is the success in meeting the overall measurement criteria stated in the Detailed Project Plan?) Please provide cumulative numbers for key criteria, such as acres completed, trees planted, educational program completed, etc.

List key project objectives and current overall status:

- 1)
- 2)
- 3)



Arizona State Forestry Grant Reimbursement Form

NOTE: It is the Sub-grantees' responsibility to develop, document, administer and manage the correct accounting and administrative procedures for administering the grant in accordance with all applicable Federal and State laws. It is the Sub-grantees' sole responsibility to maintain all grant records and provide them as necessary to any auditing agent. Inability to provide such records may result in unallowable costs to the grant and any funds disbursed to the Sub-grantee may have to be paid back to the State and/or Federal government.

Grant Number: _____
Organization Name: _____
Total Grant Amount: \$0.00 Total Match Required: \$0.00
Grant Expiration/End Date: _____ (Grant \$ + Match \$ = Total Project Cost)

Previous Project Totals (Sum of all previous reimbursement requests):

Reimbursable Costs	Match	Total
0.00	0.00	0.00

This Reimbursement Period:

Item	Reimbursable Costs	Match	Total
Administration	0.00	0.00	0.00
Personnel	0.00	0.00	0.00
Contracted Services	0.00	0.00	0.00
Supplies	0.00	0.00	0.00
Other	0.00	0.00	0.00
Other	0.00	0.00	0.00
Other	0.00	0.00	0.00
Volunteer time	N/A	0.00	0.00
In-Kind Contributions	N/A	0.00	0.00
Total:	0.00	0.00	0.00

Cumulative Project Totals (This period request added to all previous reimbursement requests):

Reimbursable Costs	Match	Total
0.00	0.00	0.00

* As long as the Cumulative **MATCH** meets the required amount, this Reimbursement Period's **REIMBURSABLE** amount should qualify for payment (provided all items are properly documented and all other grant requirements are met.)

Authorized Signature

Title

Date

SIGNATURE LINE STATEMENT (Required for Processing)

By signing the "Grant Reimbursement Form", the signing agent is verifying that:

All work performed on this grant/project was completed in conformance with all applicable laws and established procedures. Charges and time sheets submitted are in fact for work completed on this project. All charges have been reviewed and verified by a supervisor and all employee and volunteer hours are being tracked, with support documentation on file and available to any auditing agent.

NOTE: Reimbursements may take 60-90 days

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Randy Whitaker, Project Manager
Date: 03/24/2014
Meeting Date: 04/01/2014



TITLE:

Consideration and Approval of Contract: Amendment Three to the Intergovernmental Agreement (IGA)/Joint Project Agreement (JPA) 11-097I between the City of Flagstaff (City) and the Arizona Department of Transportation (ADOT) for the FY2013 Highway Safety Improvement Program (HSIP), Beulah Bike Lanes.

RECOMMENDED ACTION:

Approve Amendment Three to the IGA/JPA 11-097I between the City and ADOT in the amount of \$175,000 of which the Grant Amount is \$165,025 (94.3%) with a City match of \$9,975 (5.7%) for a total construction cost in the amount of \$175,000.

Policy Decision or Reason for Action:

The latest engineer's estimate for the construction is \$175,000; approving IGA/JPA Amendment Three will obligate FY2014 HSIP funding for the Beulah Bike Lanes for an additional grant amount of \$25,000. The previous Amendment One obligated \$150,000 (FY2014) to construction.

Subsidiary Decisions Points: This project is for design and construction of bike lanes along Beulah Boulevard between Woodland Village Boulevard and McConnell Drive. The additional width to accommodate bike lanes will be gained by removing or narrowing existing medians and narrowing lanes from 12 to 11 feet.

Financial Impact:

This IGA/JPA for FY2014 HSIP will fund the Beulah Bike Lanes project for an additional amount of \$25,000 in FY2014. The total project cost of the Beulah Bike Lanes project is estimated to be \$273,000 (Design \$98,000/Construction \$175,000) and is paid for from HSIP funds between FY 2011-2014. The Federal Share is funded at \$257,439 (94.3%) and the City Share at \$15,561.00 (5.7%). The project is identified in the Community Development Division, Transportation CIP (Account #040-9256-607-4099), City project number 03-11010.

Connection to Council Goal:

1. Repair, Replace, Maintain infrastructure (streets & utilities)

Has There Been Previous Council Decision on This:

- Original IGA/JPA for FY 2011 HSIP in the amount of \$25,000 approved on 5/17/2011
- Amendment One for FY 2012 in the amount of \$28,000 approved on 05/15/2012
- Amendment Two for FY 2013 in the amount of \$45,000 approved on 05/21/2013

Options and Alternatives:**A. Approve the JPA**

- Pros: Project will proceed providing enhanced bicycle safety.
- Cons: Additional matching funds and staff time are required.

B. Amend the JPA

- Pros: Cannot be determined without knowing amendment
- Cons: Additional staff time to discuss with ADOT, project delay

C. Reject the JPA

- Pros: Grant requirements would not apply to the Construction phase of the project including Davis/Bacon wage compliance, DBE and buy American requirements.
- Cons: Additional grant funds would not be obtained and City would need to identify funding for project.

Background/History:

The purpose of the Highway Safety Improvement Program (HSIP) is to achieve a significant reduction in traffic fatalities and serious injuries on public roads. This is to be accomplished through the development and implementation of the Strategic Highway Safety Plan (SHSP) which is a statewide-coordinated safety plan that provides a comprehensive framework for reducing highway fatalities and serious injuries on all public roads. SHSP is intended to identify the State's key safety needs and guide HSIP investment decisions. Funding is from the U.S. Department of Transportation, Federal Highway Administration (FHWA) through the Arizona Department of Transportation which is responsible for administering the HSIP in Arizona.

Key Considerations:

The 2014 HSIP funds required an approved JPA to be obligated by ADOT. Any funding not obligated by the City or County in the FMPO Region within this fiscal year is returned to ADOT.

Expanded Financial Considerations:

The funding to-date is:

- Original IGA FY2011 Design - \$25,000
- Amendment #1 FY2012 Design – \$28,000
- Amendment#2 FY2013 Design - \$45,000
- This IGA/JPA Amendment #3 for FY2014 HSIP will fund the Beulah Bike Lanes project in the amount of \$175,000 (original estimate \$150,000 plus additional \$25,000) for final construction costs.

The Total Cost of the Beulah Bike Lanes is estimated to be \$273,000 and is paid for from HSIP funds between FY 2011-2014.

Community Benefits and Considerations:

Will provide a safer route for bicycles along Beulah Boulevard which is part of the goals in the Regional Plan.

Community Involvement:

Inform

Attachments: Vicinity Map
 JPA/IGA Amendment #3
 FMPO TIP



Vicinity Map

ADOT File No.: IGA/ JPA 11-097-I
ADOT CAR No.: 13-000960-I
Amendment No. Three: 13-0003963-I
AG Contract No.: P0012011001475
Project: HSIP (Safety) Construction
Section: Bike lanes on both sides of
Beulah Boulevard
Federal-aid No.: FLA-0A(206)A
ADOT Project No.: SH508 01C
TIP/STIP No.: FMPO 161105
CFDA No.: 20.205 - Highway Planning
and Construction
Budget Source Item No.: FY 2014

**AMENDMENT NO. THREE
TO
INTERGOVERNMENTAL AGREEMENT**

BETWEEN
THE STATE OF ARIZONA
AND
CITY OF FLAGSTAFF

THIS AMENDMENT NO. THREE to INTERGOVERNMENTAL AGREEMENT (the "Amendment No. Three"), entered into this date _____, 2014, pursuant to Arizona Revised Statutes §§ 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF FLAGSTAFF, acting by and through its MAYOR and CITY COUNCIL (the "City"). The City and State are collectively referred to as the "Parties."

WHEREAS, the INTERGOVERNMENTAL AGREEMENT, JPA/IGA 11-097-I, A.G. Contract No. P001 2011001475, was executed on June 14th, 2011, Amendment No. One executed on June 11, 2012 and Amendment No. Two executed June 3rd 2013, (the "Original Agreement");

WHEREAS, the State is empowered by Arizona Revised Statutes § 28-401 to enter into this Amendment No. Three and has delegated to the undersigned the authority to execute this Amendment No. Three on behalf of the State;

WHEREAS, the State is empowered by Arizona Revised Statutes § 28-401 to enter into this Amendment No. Three and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Amendment No. Three and has authorized the undersigned to execute this Amendment No. Three on behalf of the City; and

NOW THEREFORE, in consideration of the mutual agreements expressed herein, the purpose of this Amendment No. Three is to provide additional funding for the construction phase from the Highway Safety Improvement Program (HSIP) for the Project. The Parties desire to amend the Original Agreement, as follows:

I. RECITALS

Section I. Paragraph 7 the construction costs are revised, as follows:

SH508 01C (construction):

Federal-aid funds @ 94.3%	\$ 165,025.00	441,450.00
City's match @ 5.7%	<u>\$ 9,975.00</u>	8,550.00
Subtotal – Construction	\$ 175,000.00	450,000.00
Total Federal Funds for Construction	\$ 165,025.00	
Total City Funds for Construction	<u>\$ 9,975.00</u>	
Total Estimate Construction Project Cost	\$ 175,000.00	

Under the terms of the original Agreement and Amendment One, the State has received payment from the City for the City's construction match in the amount of \$8,550.00. Upon execution of Amendment No. Three, the State will invoice the City for the City's additional Project construction costs, currently estimated at \$1,425.00. Once the Project costs have been finalized, the State will either invoice or reimburse the City for the difference between estimated and actual Project construction costs.

EXCEPT AS AMENDED herein, **ALL OTHER** terms and conditions of the Original Agreement, Amendment No. One and Amendment No. Two remain in full force and effect.

THIS AMENDMENT NO. Three shall become effective upon signing and dating of the Determination Letter by the State's Attorney General.

IN ACCORDANCE WITH Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the Parties are authorized under the laws of this State to enter into this Amendment No. Three and that the Amendment No. Three is in proper form.

IN WITNESS WHEREOF, the Parties have executed this Amendment No. Three the day and year first above written.

CITY OF FLAGSTAFF

STATE OF ARIZONA

Department of Transportation

By _____
 JERRY NABOURS
 Mayor

By _____
DALLAS HAMMIT, P.E.
 Senior Deputy Engineer, Development

ATTEST:

By _____
 ELIZABETH A. BURKE
 City Clerk

February 14th 2014-ly

ADOT File No.: IGA/ JPA 11-097-I
CAR No.: 13-0000960-I
Amendment No. Three: 13-0003963-I

ATTORNEY APPROVAL FORM FOR THE CITY OF FLAGSTAFF

I have reviewed the above referenced Amendment No. Three to the Original Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the City of Flagstaff, an agreement among public agencies which, has been reviewed pursuant to Arizona Revised Statutes §§ 11-951 through 11-954 and declare this Amendment No. Three to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Amendment No. Three.

DATED this _____ day of _____, 2014.

City Attorney

Table 6. Safety Projects with the FMPO-area: FY 2014-2018
Fiscal Years 2014-2018 as of 12/11/13

fmco_cog	project_sponsor	tip_ID_#	project_name project_location project_description	Length	federal_functional_class	lanes_before	lanes_after	FY 2013 (OA in \$000s)	FY 2014 (OA in \$000s)	FY 2015 (OA in \$000s)	FY 2016 (OA in \$000s)	FY 2017 (OA in \$000s)	FY 2018 (OA in \$000s)	federal_aid_type	federal_funds 2014-2018	local_match: 2014-2018	Total Project Cost
fmco	Flagstaff	161201-1	Sign replacement	n/a	all	n/a	n/a	40	260	10	290	10	290	HSIP	\$ 900	\$ 54	\$ 954
		161201-2	region														
		161201-3	Safety upgrade														
		161201-4	Phase:					d/c		d/c		d/c					
fmco	Flagstaff	161103	Transverse Pavement Markings	n/a	all	n/a	n/a	56						HSIP	\$ 59		
			City - multiple locations														100% funds
			Upgrade style & material														
			Phase:														
fmco	Flagstaff	161401	Switzer Canyon/Turquoise Intersection Improvement*	n/a	Urban collector	n/a	n/a					1339		HSIP	\$ 1,339	\$ 600	\$ 1,939
			Switzer Canyon/Turquoise Drive Intersection construction														100% funds
			Phase:									c					
fmco	Flagstaff	161105	Beulah Bike Lanes	0.22	Urban collector	2	2	45	175					HSIP	\$ 220	\$ 13	\$ 233
			Beulah Boulevard: Woodlands Village to McConnell														
			Median adjustment, restriping														
			Phase:					c									
fmco	Flagstaff	161107	Guardrail Improvement Program	n/a	all	n/a	n/a		498				198	HSIP	\$ 696		
			City - multiple locations														100% funds
			Study, then replace deficient														
			Phase:						c								
fmco	Cocoonino	161108	Regional Safety Project Scan	n/a	System	n/a	n/a		deleted					HSIP	\$ -		
		161402	Sign replacement	n/a	System	n/a	n/a	65									
			region														100% funds
			Safety upgrade														
			Phase:					d/c									
			Year and Amount Loaned	n/a	System	n/a	n/a	-643		-198				HSIP	\$ -	-643	
			Year Received								841						
			Year Borrowed														0 100% funds
			Year Paid														
			TOTAL COSTS					-104	-540	-498	-300	-1,339	-498		\$ 3,279		
			FUNDING**					780	540	498	498	498	498				
			Loans/(Debits)					-643	0	0	-198	841	0				
			BALANCE (deobligated)					33	0	0	0	0	0				

** County guardrail project cancelled leaving \$42,000 in Obligation Authority added into the FY 14 funding stream.
Tan shading indicates eligibility, final cost estimate or loan approval pending. Yellow shading indicates most recent amendments.
Phase Codes: s = study, d = design, r = right-of-way, c = construction

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Heidi Holland, Library Director
Co-Submitter: Barbara Goodrich, Management Services Director
Date: 03/24/2014
Meeting Date: 04/01/2014



TITLE:

Consideration and Approval of Contract: Intergovernmental Agreement between the City of Flagstaff and Coconino County concerning the administration of funds of the Free Library District

RECOMMENDED ACTION:

Approve and renew Intergovernmental Agreement between the City of Flagstaff and Coconino County for the administration of funds of the Coconino County Free Library Tax District.

Policy Decision or Reason for Action:

The current IGA between the City of Flagstaff and Coconino County for the Administration of Library District Funds has expired and this updated IGA provides for the continuation of service.

Financial Impact:

Library base budgets for the District were updated to the current annual allocations as designated by the Library Council. There is no financial impact associated with this change.

Connection to Council Goal:

Effective governance.

Has There Been Previous Council Decision on This:

Yes, Council has approved various Agreements with Coconino County concerning Library services since the early 1980s. The Council approved its' first agreement concerning fund administration with Coconino County in 1995.

A history of the approved Agreements include:

- IGA's - 1981, 1995, 2006, and 2008
- MOU - 2000

Options and Alternatives:

- 1) Approve Intergovernmental Agreement, Agreement is renewed and the City of Flagstaff continues as fiscal agent.
- 2) Do not approve and new administration of funds agreement would need to be determined.

Background/History:

The City of Flagstaff has approved agreements with Coconino County regarding Library Services since the early 1980's. Previous intergovernmental agreements among the entities receiving funding from the Library District established the Coconino County Library Council and provided for the allocation of sufficient funding for the operation of public libraries throughout Coconino County. The City Library Director provides direct administrative oversight to both Flagstaff Library's as well as the branch libraries including the County Bookmobile, the County Jail, Forest Lakes, Tuba City, and Grand Canyon. This intergovernmental agreement also directs the funding to the affiliate libraries in the system including Fredonia, Page, Sedona, and Williams.

Providing for the centralized financial administration of the Library's allows for funds to be coordinated and used centrally which gain efficiencies throughout the system. This centralization also allows the Library's to work together to work through challenging financial or systematic issues.

Key Considerations:

This ongoing collaboration between the City of Flagstaff and Coconino County concerning the Library District operations and funding has been a successful partnership. Approving this Intergovernmental Agreement will allow this partnership to continue.

Expanded Financial Considerations:

The updated IGA allows for the current allocation of funds to be memorialized in this agreement.

Community Benefits and Considerations:

The public library systems throughout Coconino County provide a cornerstone for community and visitor engagement. During the most recent recession, the libraries logged record numbers of visitors and provided resources as needed for those displaced from their current employment. Our local Flagstaff library's are continually sought out by national and international visitors.

Community Involvement:

Not applicable.

Expanded Options and Alternatives:

1. Approve Intergovernmental Agreement, Agreement is renewed and the City of Flagstaff continues as fiscal agent.
2. Do not approve and new administration of funds agreement would need to be determined.

Attachments: IGA City County Admin of LDistrict Funds

Coconino County Free Library District Intergovernmental Agreement

Administration of Funds of the Coconino County Free Library District

This Intergovernmental Agreement (IGA) is entered into this ____ day of _____, 2013 (the “Effective Date”), by and among the **City of Flagstaff** (“**Flagstaff**”), an Arizona municipal corporation with offices at 211 West Aspen Avenue, Flagstaff, Arizona 86001, the **City of Williams**, an Arizona municipal corporation with offices at 113 South First Street, Williams, Arizona 86046, the **City of Page**, an Arizona municipal corporation with offices at 697 Vista Avenue, Page, Arizona 86040, the **Town of Fredonia**, an Arizona municipal corporation with offices at Town Hall, Fredonia, Arizona 86022, **Coconino County** (the “**County**”), a body politic and corporate as provided in Sections 11-105 and 11-201 of the Arizona Revised Statutes, with offices at 219 East Cherry Street, Flagstaff, Arizona 86001, (all of the foregoing sometimes referred to as the “**Operating Parties**”), and the **Coconino County Free Library District** (the “**District**”), a county free library district, special taxing district and political subdivision of the State of Arizona duly formed and existing under the provisions of Title 9, Chapter 7, Article 1 and Title 48, Chapter 24 of the Arizona Revised Statutes, governed by the Coconino Board of Supervisors and acting through the District Board of Directors.

RECITALS

- A. Each of the Operating Parties wishes to contract with the District and sponsors or operates one or more public libraries funded by the District;
- B. The District and the Operating Parties are funded by a county free library district tax levied by the District and collected on the District’s behalf by the County;
- C. The parties wish to set forth their agreement regarding the allocation of such tax receipts and the administration of the Operating Party libraries;

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement the Operating Parties agree as follows:

1. Definitions

- 1.1 **Affiliate Library:** Libraries that are members of the District or contract with the District that are within an incorporated town or City. Affiliate Libraries include Fredonia Public Library, Page Public Library, Sedona Public Library, and Williams Public Library.
- 1.2 **Base Amount:** For purposes of this Agreement, the Base Amount is Three Million, Nine Hundred Nine Thousand, Eight Hundred Forty-Eight Dollars (\$3,918,516.00).
- 1.3 **Basic Services:** This term may include, but is not limited to: facilities for reading and

study; purchase and maintenance of materials; access to online services and databases, including the internet; reference service, both in person and by telephone; request and interlibrary loan service; and children's programming.

- 1.4 **Branch Library:** Libraries that are members of the District or contract with the District that are within the City of Flagstaff or in the unincorporated portions of Coconino County, and whose employees are administered through the City of Flagstaff. Branch Libraries include the East Flagstaff Community Library, the Coconino County Bookmobile, Coconino County Correctional Facility Library, Forest Lakes Community Library, Tuba City Public Library, Grand Canyon Community Library.
- 1.5 **Coconino County Library District Council:** The Coconino County Library District Council (the "Library Council"), having been formed by the Operating Parties, is comprised of one representative from each of the Operating Parties, and in addition, a representative from the Sedona Public Library appointed by the District, and advises the Coconino County Board of Supervisors on matters concerning growth of services and/or facilities, special needs requests, and such other matters concerning administration of the District and libraries in the District upon which the Board of Supervisors shall request its advice. The role of the Library Council shall be advisory only and shall not bind or restrict the authority of the Coconino County Board of Supervisors in governing the District. The Coconino County Librarian is appointed per Arizona statute by the County Board of Supervisors, acting on behalf of the District.
- 1.6 **District Libraries:** all Affiliate, Branch and Other Libraries and the Main Library. These libraries may be members of the District, or may contract with the District.
- 1.7 **Excess or Deficit:** These terms refer to the difference between the amount of the Total Library District Tax and the Base Amount and Fund Balance.
- 1.8 **Indirect Rate:** A single fixed rate that is recalculated annually by Flagstaff that includes all allowable control services costs and is prepared in accordance with the simplified method as prescribed by OMB A-87.
- 1.9 **Main Library:** The Library located in Flagstaff that is the central library. This Library oversees and supervises operations of Branch Libraries and advises Affiliate Libraries and Other Libraries.
- 1.10 **Other Libraries:** All Libraries that are members of the District or contract with the District and that are not Affiliate or Branch Libraries, including the Coconino County Law Library, the Supai Library, and the Ashfork Library.
- 1.11 **Total Library District Tax:** For purposes of this Agreement, the Total Library District Tax is the gross amount collected annually from the Library District tax levy.

2. Allocation of Tax Receipts

The Base Amount shall be allocated for Basic Services as follows:

- 2.1 Sixty-Six Thousand, Four Hundred Eighty-Seven Dollars (\$66,487.00) to the Town of Fredonia for the Fredonia Public Library to provide Basic Services; and
- 2.2 Three Hundred Nineteen Thousand, Five Hundred Fifty-One Dollars (\$319,551.00) to the City of Page for the Page Public Library to provide Basic Services; and
- 2.3 Three Hundred Seventy-Three Thousand, Forty-Three Dollars (\$373,043.00) retained by the District for allocation to the Sedona Public Library, as a branch of the Coconino County Free Library, to provide Basic Services; and
- 2.4 Ninety-Two Thousand, Two Hundred Fifty-One Dollars (\$92,251.00) to the City of Williams for the Williams Public Library to provide Basic Services; and
- 2.5 Two million, One Hundred Sixty-Four Thousand, Five Hundred and Thirty-Four Dollars (\$2,164, 534.00) to Flagstaff for the Main and Branch libraries in the City of Flagstaff to provide Basic Services; and
- 2.6 Seventy- Six Thousand, Two Hundred Fifty Dollars (\$76, 250.00) to Flagstaff for operations of the County Bookmobile, to provide Basic Services to residents in the City of Flagstaff and outlying areas of the District;
- 2.7 Sixty-Two Thousand, One Hundred Seventy-One Dollars (\$62,171.00) to Flagstaff for operations of the Coconino County Correctional Facility Library, to provide Basic Services, as applicable; and
- 2.8 Ninety Thousand, Nine Hundred Seventy-Seven Dollars (\$90,977.00) to the City of Flagstaff for the Grand Canyon Community Library to provide Basic Services; and
- 2.9 Two Hundred One Thousand, Two Hundred Fifty-Two Dollars (\$201,252.00) to Flagstaff for the Tuba City Public Library to provide Basic Services; and
- 2.10 Eighty Thousand, Seven Hundred and Fifty-Three Dollars (\$80,753.00) to Flagstaff for the Forest Lakes Public Library to provide Basic Services; and
- 2.11 Ninety-Two Thousand, Four Hundred Seventy-Two Dollars (\$92, 472.00) to the County for the County Law Library to provide Basic Services; and
- 2.12 Five Thousand, Three Hundred Sixty-Seven Dollars (\$5,367.00) to Flagstaff for the Supai Public Library to provide Basic Services.
- 2.13 Eight Thousand Six Hundred Sixty Eight Dollars (\$8,668.00) to Flagstaff for the Ashfork Public Library to provide Basic Services.

- 2.14 Two Hundred Eighty-Four Thousand, Seven Hundred Forty Dollars (\$284,740.00) to Flagstaff to provide information technology support to Branch, Affiliate, and other Libraries.

3. Administration of Funds; Amounts Collected Over or Under the Base Amount

- 3.1 All funds for the Branch Libraries as set forth in Section 2, shall be administered by Flagstaff; funds for the Affiliate Sedona Public Library shall be administered by Sedona Public Library; funds for the County Law Library shall be administered by the County; and funds for each of the other Affiliate libraries shall be administered by the incorporated city or town in whose jurisdiction such library is situated.
- 3.2 In the event that the District shall, in any fiscal year during the term of this Agreement, collect less total tax than the Base Amount, then such reduced tax collections shall be allocated among the District libraries, based upon recommendations of the Coconino County Library Council and authorized by the Coconino County Board of Supervisors acting as the District Board of Directors.
- 3.3 In the event that the District shall, in any fiscal year during the term of this Agreement collect more total tax than the Base Amount, then such tax collections shall be allocated first as set forth in Section 2, and the balance shall be forwarded to Flagstaff to be expended, with the advice of the Coconino County Library Council for: district-wide automation and growth projects, allocation to libraries based on criteria set forth by the Coconino County Library District Council, expansion of existing library facilities and services; provided, however, that the Board of Supervisors, with the advice of the Library Council, may, in its discretion, choose to set aside or expend any such excess funds for special needs of individual libraries, such as capital improvement or repairs, automation upgrades, or replacement of the Bookmobile, provided that the party administering the facility for which such special need occurs shall provide sufficient matching funds as determined by the Library Council.
- 3.4 Any funds of the District not expended in any fiscal year shall be legally reserved for the uses described in 3.3.
- 3.5 The County shall disburse the base funds allocated as follows: one-half (1/2) of each amount allocated shall be distributed by November 30th of each fiscal year covered by this Agreement, and the balance of each such allocation no later than the following May 31st.
- 3.6 All funds allocated and disbursed under this Agreement shall be used solely for library purposes.
- 3.7 The County shall provide to all parties a full accounting and reconciliation of collections and disbursements no later than 60 days following the end of each fiscal year.
- 3.8 Funds collected above the Base Amount will be reconciled by Coconino County

following the close of the fiscal year and then transferred to the City of Flagstaff no later than September 1st. These excess funds will be distributed as set forth in 3.3 above.

4. Effective Date and Term

- 4.1 This Agreement shall be effective with respect to the Operating Parties and the District as of July 1, 2013.
- 4.2 This Agreement shall continue in force and effect until midnight on June 30, 2015, unless sooner terminated as indicated in this Agreement.
- 4.3 This Agreement may be terminated pursuant to Arizona Revised Statutes Section 38-511.
- 4.4 Upon termination of this Agreement for any reason, any property purchased by a party using funds already paid to it shall remain the property of such party.

5. Assignment of Library Grants

In addition to those funds allocated to Flagstaff under Section 2 of this Agreement, the County and the District hereby assign to Flagstaff their rights to library grant funds distributed by the State of Arizona during the term of this Agreement, and agree that Flagstaff may receive such grant funds directly from the state, provided that any and all such grant funds are expended solely for purposes of operation and development of county-wide free public library service.

6. Operations and Reporting

- 6.1 During the term of this Agreement, each of the Operating Parties shall, with respect to all District public libraries sponsored and/or operated by it:
 - 6.1.1 ensure that all such libraries (other than the County Jail Library) provide full use of their facilities and services to the general public or to a reasonably acceptable level of services to the general public under the circumstances;
 - 6.1.2 Cooperate in the planning and implementation of cooperative resource-sharing and District-wide automation projects and activities as the Board of Supervisors shall reasonably request;
 - 6.1.3 Maintain monthly circulation statistics and provide them to the District as and when requested;
 - 6.1.4 Complete or assist the District in completing its annual statistical survey for the state Library Extension Service; and
 - 6.1.5 Provide to the District, upon the District's reasonable request, a written accounting describing the application of all funds allocated and disbursed under this Agreement.
- 6.2 No later than September 30th of each year during the term of this Agreement, Flagstaff

shall provide the County with an annual summary of expenditures of Flagstaff under this Agreement for the preceding fiscal year.

7. Indemnification

Each Operating Party covenants and agrees to indemnify the District, the County and Flagstaff and hold them harmless for and from any and all claims, demands, costs, actions, suits, liabilities, losses and expenses, of whatever kind and nature whatsoever, that may arise or result from any act, action or omission of such Operating Party under this Agreement.

8. Notices

Unless otherwise specified in this Agreement, any notice or other communication required or permitted to be given under this Agreement shall be in writing and sent to the address given below for the party to be notified, or to such other address notice of which is given in accordance with this Section:

If to Flagstaff:

Deputy City Manager
City of Flagstaff
211 West Aspen Avenue
Flagstaff, Arizona 86001

If to the County or the District:

Deputy County Manager
Coconino County
219 East Cherry Street
Flagstaff, Arizona 86001

Notice to any of the other Operating Parties shall be sent to the address set forth for each above, respectively.

9. Authority to Contract

Each of the Operating Parties represents and warrants that it has full power and authority to enter into and perform its obligations under this Agreement, in accordance with A.R.S. Sec. 11-952.

10. Prior Agreements, Integration, Modification

- 10.1 The parties acknowledge and agree that they have not relied upon any statements, representations, agreements or warranties, except as expressed in this Agreement, and that this constitutes the parties' entire agreement with respect to the matters addressed in the Agreement. All prior or contemporaneous agreements and understandings, oral or written, with respect to such matters are superseded and merged in this Agreement.
- 10.2 This Agreement may be modified or amended only by written agreement signed by or for all parties, and any such modification or amendment will become effective on the date specified in the amendment.

11. Severability

In the event that a court of competent jurisdiction shall hold any part or provision of this Agreement void or of no effect, the remaining provisions of this Agreement shall remain in full force and effect, to the extent that the enforcement of such remaining terms shall continue to reflect substantially the intent of the parties to this Agreement.

12. Waiver

No failure to enforce any condition or covenant of this Agreement shall imply or constitute a waiver of the right to insist upon performance of such condition or covenant, or of any other provision of this Agreement, nor shall any waiver by any party of any breach of any one or more conditions or covenants of this Agreement constitute a waiver of any succeeding or other breach of this Agreement.

13. Headings

The headings used in this Agreement are for convenience only and are not intended to alter or affect the meaning of any provision of this Agreement.

14. No Third-Party Beneficiaries.

This Agreement is made solely for the purposes of the parties. There are no intended third-party beneficiaries.

15. Governing Law

This Agreement shall be governed, interpreted and enforced in accordance with the laws of the State of Arizona.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first above written.

City of Flagstaff

**Coconino County Free Library
District and Coconino County**

By: Gerald W. Nabours, Mayor

By: Matt Ryan, Chairman
Board of Supervisors

Attest:

Attest:

City Clerk

County Clerk

City of Williams

City of Page

By: John Moore, Mayor

By: Bill Diak, Mayor

Attest:

Attest:

City Clerk

Town of Fredonia

By:

By: Jennifer Lukus, Mayor

Attest:

Attest:

Secretary of the corporation

Town Clerk

The undersigned counsel have determined that this Agreement is in proper form and within the powers and authority of the respective parties represented under the laws of this state.

Michelle D’Andrea, City Attorney
Counsel for the City of Flagstaff

David W. Rozema, County Attorney
Counsel for Coconino County and
Coconino County Free Library District

Counsel for the City of Williams

Joseph Estes,
City Attorney
Counsel for the City of Page

Counsel for the Town of Fredonia

CITY OF FLAGSTAFF

STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Mike Gouhin, FHA Director
Date: 03/24/2014
Meeting Date: 04/01/2014



TITLE:

Consideration and Adoption of Resolution No. 2014-12 : A resolution of the Mayor and Council of the City of Flagstaff, Arizona approving the City of Flagstaff Housing Authority's Annual Plan and authorizing its submission to the United States Department of Housing and Urban Development (HUD)

RECOMMENDED ACTION:

- 1) Read Resolution No. 2014-12 by title only
- 2) City Clerk reads Resolution No. 2014-12 by title only (if approved above)
- 3) Adopt Resolution No. 2014-12

Policy Decision or Reason for Action:

Subsidiary Points: Adoption of Resolution No. 2014-12 will provide approval of the City of Flagstaff Housing Authority's ("CFHA") Annual Plan and authorize submission of the Plan to the United States Department of Housing and Urban Development ("HUD") for the fiscal year beginning July 1, 2014.

Financial Impact:

Each year HUD provides Capital Funds to be used for operations, management improvements, administration, physical improvements to the public housing units and grounds, and purchase of maintenance equipment.

Connection to Council Goal:

Effective governance

Has There Been Previous Council Decision on This:

Yes. Council approval is required each year prior to submission of the Annual Plan to HUD. Council approved the 2013-2014 Annual Plan on April 2, 2013.

Options and Alternatives:

- 1) Approve the CFHA Annual Plan
- 2) Amend and approve the CFHA Annual Plan

Background/History:

The Quality Housing and Work Responsibility Act of 1998 (QHWRA) requires the submission of a 5-Year Plan to HUD. Subsequent to the submission of the 5-Year Plan, HUD requires the submission of an Annual Plan containing any significant changes to the Goals and Objectives; progress reports of outstanding Capital fund Program Grants; Capital Fund Grant for the fiscal year of the Annual Plan; and amendments to the Five-Year Capital Fund Action Plan.

The 5-Year Plan was submitted in 2010 covering the fiscal years 2010 through 2014. The Annual Plan before Council is the fifth year of the 5-Year Plan for the fiscal year beginning July 1, 2014.

Each year HUD provides Capital funds to be used for operations; management improvements; administration; physical improvements to public housing units and grounds; and the purchase of maintenance equipment. CFHA has two years to commit and four years to spend the funds. Because of this, there could be two or three Capital Fund Programs running at the same time. It is also required that a 5-Year Capital Fund Action Plan accompany the submission of the 5-Year Plan that is used to determine the use of Capital Funds for each of the subsequent Annual Plan Years. The Siler Resident Management Corporation, an Arizona non-profit whose membership is all of the public housing residents, provides input on the use of the Capital Funds and recommends additional needs.

The Annual Plan needs to be approved by the City Council and submitted to HUD by no later than April 17, 2014.

Key Considerations:

Section 10.0 of the 5-Year Plan, Strategy for Addressing Housing Needs, sets forth eight goals and objectives which include working with the City's Land Trust to provide additional housing (Goal Four); working with the Guidance Center to plan additional housing for the homeless seriously mentally ill (Goal Seven); and continuing to partner with the Guidance Center to apply for additional Seriously Mentally Ill Section 8 special purpose vouchers (Goal Eight).

The FY2014 Annual Plan contains:

New Goal Nine: Merge City of Flagstaff Housing Authority and City Housing Section.

Objectives:

1. Create a project plan by June 15, 2014
2. Execute project plan by June 30, 2015
3. Financial/Budget benefits
4. Organizational efficiencies
5. Succession planning clarity

CFHA has one open Capital Fund Program from 2013. \$348,130 was awarded by HUD on September 9, 2013. The funds must be obligated by September 9, 2015 and expended by September 9, 2017. \$165,439 has been expended with the balance of \$182,691 expected to be expended during FY2014.

Fiscal Year 2014 Capital Funds have not yet been determined by HUD but is estimated to be approximately \$360,000.

6. New management structure and salary savings

Expanded Financial Considerations:

There are no General Fund monies involved in the Plan. The use of Capital Funds was explained in Key Considerations, and in Community Benefits and Considerations. In addition, a portion of the Capital Funds are being used for energy conservation and green retrofit items that will reduce energy costs.

Community Benefits and Considerations:

The QHWRA was adopted by Congress to improve the living environment of Public Housing Residents. The Capital Fund Program is used to improve the Public Housing Units for comfort, safety, and energy efficiency. The proposed use of FY2014 Capital Funds is as follows:

Physical Improvements:

Upgrade deteriorating water lines at Brannen Homes	\$108,000
Roof replacement of 19 buildings at Brannen Homes	\$114,000

Management Improvements:

Operation - 20% of grant	\$ 72,000
Management Improvements	\$ 30,000
Administration - 10% of grant	\$ 36,000

Community Involvement:**Inform**

The Public Housing Residents are kept informed of unit improvements through the Siler Resident Management Corporation (SRMC); monthly housing authority newsletters; and resident meetings.

The QHWRA requires resident participation through a Resident Advisory Board (RAB). Since the SRMC represents all of the Public Housing Residents, they are considered the RAB and provide necessary input.

Attachments: Res. 2014-12
 Notice of Public Hearing
 2014 Annual Plan

RESOLUTION NO. 2014-12

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA APPROVING THE CITY OF FLAGSTGAFF HOUSING AUTHORITY'S ANNUAL PLAN AND AUTHORIZING ITS SUBMISSION TO THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

RECITALS:

WHEREAS, the Flagstaff City Council is committed to the welfare of its low-income residents; and

WHEREAS, the Quality Housing and Work Responsibility Act of 1998 requires the Housing Authority of the City of Flagstaff to submit a 5-Year Plan to the United States Department of Housing and Urban Development ('HUD'); and

WHEREAS, the 5-Year Plan was submitted to HUD in 2010; and

WHEREAS, HUD requires the submission of an Annual Plan containing status updates and any significant changes to the Goals and Objectives; progress reports of outstanding Capital Fund Program Grants; Capital Fund Grant for the fiscal year of the Annual Plan; and amendments to the Five Year Capital Fund Action Plan;

WHEREAS, the Board of Commissioners of the City's Housing Authority reviewed and approved the Annual Plan; and

WHEREAS, the Flagstaff City Council reviewed the Annual Plan.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1: That the City of Flagstaff Housing Authority's 2014-2015 Annual Plan be approved.

SECTION 2: That the City of Flagstaff Housing Authority is authorized to submit the Annual Plan to HUD.

PASSED AND ADOPTED by the City Council of the City of Flagstaff this 1st day of April, 2014.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

NOTICE OF PUBLIC HEARING
CITY OF FLAGSTAFF HOUSING AUTHORITY
FISCAL YEAR 2014 ANNUAL PLAN

The City of Flagstaff Housing Authority is developing its Fiscal Year 2014 Annual Public Housing Agency Plan for the period July 1, 2014 to June 30, 2015 in accordance with the Quality Housing and Work Responsibility Act of 1998. The draft Plan will be available for review beginning March 1, 2014 at the City of Flagstaff Housing Authority, 3481 N. Fanning Dr., Flagstaff, AZ. The Authority's hours of operation are 8:00 a.m. to 5:00 p.m., Monday through Friday. Anyone wishing to comment on the Plan must provide written comments with name and address so that the Authority can respond to any and all comments.

In addition, a public hearing will be held on Wednesday, March 12, 2014 at 4:00 p.m. in the Conference/Board Room of the City of Flagstaff Housing Authority, 3481 N. Fanning Dr., Flagstaff, AZ 86004.

For anyone needing special accommodations, please contact Michael A. Gouhin, Executive Director, at (928) 526-0002X213 at least three business days prior to the public hearing.

PHA Plan Update

- (a) Identify all PHA Plan elements that have been revised by the PHA since its last Annual Plan submission:
- (b) Identify the specific location(s) where the public may obtain copies of the 5-Year and Annual PHA Plan. For a complete list of PHA Plan elements, see Section 6.0 of the instructions.

The public may obtain a copy of the 5-Year/Annual Plan at the Flagstaff Housing Authority, 3481 N. Fanning Dr., Flagstaff, AZ 86004. The PHA Plans are posted at the Flagstaff Housing Authority Central Office, 3481 N. Fanning Dr., Flagstaff, AZ 86004; Brannen Homes Office, One Brannen Circle, Flagstaff, AZ 86001; and the Siler Resident Management Corporation, 3330 Elder, Flagstaff, AZ 86004.

PHA Plan Elements:

Financial Resources:

• Public Housing Operating Fund	581,670	PH Operations
• Section 8 Housing Choice Vouchers	3,344,900	HAP & Administration
• Capital Fund 113	-0-	PH Operations
• Capital Fund 113	182,690	Capital Improvements
• Capital Fund 114	98,560	PH Operations
• Capital Fund 114	222,000	Capital Improvements
• Public Housing Dwelling Rental Income	956,630	PH Operations
• Other Income – Resident Charges	40,000	PH Operations
• Port Fees Earned/Misc	10,000	S8 HCV Administration
• Non-Profit Management Fee	41,000	PH Operations
• ROSS Grant	64,000	PH Operations
• SRO Mod Rehab	60,500	HAP & Administration

Total Resources **5,601,950**

Violence Against Women Act (VAWA)

VAWA PROTECTIONS:

Under the Violence Against Women Act (VAWA), public housing residents have the following specific protections, which will be observed by the City of Flagstaff Housing Authority.

An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence, and shall not in itself be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.

The Housing Authority may terminate the assistance to remove a lawful occupant or tenant who engages in criminal acts or threatened acts of violence or stalking to family members or others without terminating the assistance or evicting victimized lawful occupants. This is also true even if the household member is not a signatory to the lease. Under VAWA, the City of Flagstaff Housing Authority is granted the authority to bifurcate the lease.

The Housing Authority will honor court orders regarding the rights of access or control of the property.

There is no limitation on the ability of the Housing Authority to evict for other good cause unrelated to the incident or incidents of domestic violence, dating violence or stalking, other than the victim may not be subject to a “more demanding standard” than non-victims.

There is no prohibition on the Housing Authority evicting if it “can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant’s (victim’s) tenancy is not terminated. *An actual and imminent threat consists of a physical danger that is real, would occur within an immediate timeframe, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: the duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.*

The City of Flagstaff Housing Authority shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by the Housing Authority. Types of acceptable verifications are outlined below, and must be submitted within 14 business days after receipt of the Housing Authority’s written request for verifications.

VERIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE OR STALKING

The City of Flagstaff Housing Authority shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by the Housing Authority.

- A. **REQUIREMENTS FOR VERIFICATION.** The law allows, but does not require, the City of Flagstaff Housing Authority to verify that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking claimed by a tenant or other lawful occupant is bona fide and meets the requirements of the applicable definitions set forth in the policy. The Housing Authority shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by the Housing Authority.

Verification of a claimed incident or incidents of actual or threatened domestic violence, dating violence, or stalking may be accomplished in one of the following three ways:

1. **HUD-approved form (HUD-91066)** – By providing to the Housing Authority a written certification, on the form approved by

	<p>HUD, that the individual is a victim of domestic violence, dating violence or stalking that the incident or incidents in question are bona fide incidents or actual or threatened abuse meeting the requirements of the applicable definition(s) set forth in this policy. The incident or incidents in question may be described in reasonable detail as required in the HUD-approved form, and the completed certification must include the name of the perpetrator.</p> <ol style="list-style-type: none"> 2. Other Documentation – by providing to the Housing Authority documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the domestic violence, dating violence or stalking, or the effects of the abuse, described in such documentation. The professional providing the documentation must sign and attest under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse meeting the requirements of the applicable definition(s) set forth in this policy. The victim of the incident or incidents of domestic violence, dating violence or stalking described in the documentation must also sign and attest to the documentation under penalty of perjury. 3. Police or court record - by providing to the Housing Authority a Federal, State, tribal, territorial, or local police or court record describing the incident or incidents in question. 4. The submission of false information maybe the basis for termination of assistance or for eviction. <p>B. TIME ALLOWED TO PROVIDE VERIFICATION/FAILURE TO PROVIDE. An individual who claims protection against adverse action based on an incident or incidents of actual or threatened domestic violence, dating violence or stalking, and who is requested by the Housing Authority to provide verification, must provide such verification within 14 business days after receipt of the written request for verification. Failure to provide verification, in proper form within such time will result in loss of protection under VAWA and this policy against a proposed adverse action.</p> <p>C. MANAGING CONFLICTING DOCUMENTATION. <i>In cases where the Housing Authority receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the Housing Authority may determine which is the true victim by requiring third-party documentation as described in 24 CFR 5.2007 and in accordance with any HUD guidance as to how such determinations will be made. The Housing Authority shall honor any court orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household.</i></p> <p>D. CONFIDENTIALITY – All information provided under VAWA including the fact that an individual is a victim of domestic violence, dating violence or stalking shall be retained in confidence and shall not be entered into any shared database or provided to any related entity except to the extent that the disclosure is:</p> <ol style="list-style-type: none"> 1. Requested or consented to by the individual in writing; 2. Required for use in an eviction proceeding; or 3. Otherwise required by applicable law. <p>The City of Flagstaff Housing Authority shall provide its tenants notice of their rights under VAWA including their right to confidentiality and the limits thereof.</p> <p>6.0.11 Fiscal Year Audit</p> <p>There was one audit finding regarding recording of Declarations of Trust.</p> <p>Hope VI, Mixed Finance Modernization or Development, Demolition and/or Disposition, Conversion of Public Housing, Homeownership Programs, and Project-based Vouchers. <i>Include statements related to these programs as applicable.</i></p> <p>N/A</p>
7.0	
8.0	Capital Improvements. Please complete Parts 8.1 through 8.3, as applicable.
8.1	Capital Fund Program Annual Statement/Performance and Evaluation Report. As part of the PHA 5-Year and Annual Plan, annually complete and submit the <i>Capital Fund Program Annual Statement/Performance and Evaluation Report</i> , form HUD-50075.1, for each current and open CFP grant and CFFP financing.
8.2	Capital Fund Program Five-Year Action Plan. As part of the submission of the Annual Plan, PHAs must complete and submit the <i>Capital Fund Program Five-Year Action Plan</i> , form HUD-50075.2, and subsequent annual updates (on a rolling basis, e.g., drop current year, and add latest year for a five year period). Large capital items must be included in the Five-Year Action Plan.
8.3	<p>Capital Fund Financing Program (CFFP).</p> <p><input type="checkbox"/> Check if the PHA proposes to use any portion of its Capital Fund Program (CFP)/Replacement Housing Factor (RHF) to repay debt incurred to finance capital improvements.</p>
9.0	<p>Housing Needs. Based on information provided by the applicable Consolidated Plan, information provided by HUD, and other generally available data, make a reasonable effort to identify the housing needs of the low-income, very low-income, and extremely low-income families who reside in the jurisdiction served by the PHA, including elderly families, families with disabilities, and households of various races and ethnic groups, and other families who are on the public housing and Section 8 tenant-based assistance waiting lists. The identification of housing needs must address issues of affordability, supply, quality, accessibility, size of units, and location.</p> <p>This section is only for the Annul Plan submitted in 2010 and not due until 2015.</p>

9.1	<p>Strategy for Addressing Housing Needs. Provide a brief description of the PHA's strategy for addressing the housing needs of families in the jurisdiction and on the waiting list in the upcoming year. Note: Small, Section 8 only, and High Performing PHAs complete only for Annual Plan submission with the 5-Year Plan.</p> <p>Our 5-Year Plan was submitted in 2010 and is not due until 2015</p>
10.0	<p>Additional Information. Describe the following, as well as any additional information HUD has requested.</p> <p>(a) Progress in Meeting Mission and Goals. Provide a brief statement of the PHA's progress in meeting the mission and goals described in the 5-Year Plan. CFHA is a High Performer and is required only to submit this in the 5-Year Plan which was submitted in 2010.</p> <p>(b) Significant Amendment and Substantial Deviation/Modification. Provide the PHA's definition of "significant amendment" and "substantial deviation/modification"</p> <ol style="list-style-type: none"> 1. "Substantial Deviation: from the 5-Year/Annual Plan is an overall change in the direction of the FHA pertaining to Goals and Objectives. This includes changing the Authority's Goals and Objectives. 2. "Significant Amendment or Modification" to the Annual Plan is a change in policy of policies pertaining to the operation of FHA. This includes the following: <ul style="list-style-type: none"> • Changes to rent or admissions policies or organizing the waiting list. • Addition of non-emergency work items (items not included in the current Annual Statement or 5-Year Plan) or change in use of replacement reserve funds under the Capital Fund. • Any changes with regard to demolition or disposition, designation, homeownership programs or conversion activities.

11.0	<p>Required Submission for HUD Field Office Review. In addition to the PHA Plan template (HUD-50075), PHAs must submit the following documents. Items (a) through (g) may be submitted with signature by mail or electronically with scanned signatures, but electronic submission is encouraged. Items (h) through (i) must be attached electronically with the PHA Plan. Note: Faxed copies of these documents will not be accepted by the Field Office.</p> <p>(a) Form HUD-50077, <i>PHA Certifications of Compliance with the PHA Plans and Related Regulations</i> (which includes all certifications relating to Civil Rights)</p> <p>(b) Form HUD-50070, <i>Certification for a Drug-Free Workplace</i> (PHAs receiving CFP grants only)</p> <p>(c) Form HUD-50071, <i>Certification of Payments to Influence Federal Transactions</i> (PHAs receiving CFP grants only)</p> <p>(d) Form SF-LLL, <i>Disclosure of Lobbying Activities</i> (PHAs receiving CFP grants only)</p> <p>(e) Form SF-LLL-A, <i>Disclosure of Lobbying Activities Continuation Sheet</i> (PHAs receiving CFP grants only)</p> <p>(f) Resident Advisory Board (RAB) comments. Comments received from the RAB must be submitted by the PHA as an attachment to the PHA Plan. PHAs must also include a narrative describing their analysis of the recommendations and the decisions made on these recommendations.</p> <p>(g) Challenged Elements "NO CHALLENGED ELEMENTS FROM RAB"</p> <p>(h) Form HUD-50075.1, <i>Capital Fund Program Annual Statement/Performance and Evaluation Report</i> (PHAs receiving CFP grants only)</p> <p>(i) Form HUD-50075.2, <i>Capital Fund Program Five-Year Action Plan</i> (PHAs receiving CFP grants only)</p>
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Annual Statement/Performance and Evaluation Report
 Capital Fund Program, Capital Fund Program Replacement Housing Factor and
 Capital Fund Financing Program

U.S. Department of Housing and Urban Development
 Office of Public and Indian Housing
 OMB No. 2577-0226
 Expires 4/30/2011

Part I: Summary					
PHA Name: FLAGSTAFF		Grant Type and Number Capital Fund Program Grant No: AZ20P00650113 Replacement Housing Factor Grant No: Date of CFFP:			FFY of Grant: 2013 FFY of Grant Approval: 2013
Type of Grant <input type="checkbox"/> Original Annual Statement <input type="checkbox"/> Reserve for Disasters/Emergencies <input type="checkbox"/> Revised Annual Statement (revision no:) <input checked="" type="checkbox"/> Performance and Evaluation Report for Period Ending: 03/31/2014 <input type="checkbox"/> Final Performance and Evaluation Report					
Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost ¹	
		Original	Revised ²	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations (may not exceed 20% of line 21) ³	69,626		-0-	-0-
3	1408 Management Improvements	30,000		3,160	-0-
4	1410 Administration (may not exceed 10% of line 21)	34,813		34,813	13,566
5	1411 Audit				
6	1415 Liquidated Damages				
7	1430 Fees and Costs				
8	1440 Site Acquisition				
9	1450 Site Improvement				
10	1460 Dwelling Structures	124,691		31,000	-0-
11	1465.1 Dwelling Equipment—Nonexpendable				
12	1470 Non-dwelling Structures	45,000		-0-	-0-
13	1475 Non-dwelling Equipment	44,000		-0-	-0-
14	1485 Demolition				
15	1492 Moving to Work Demonstration				
16	1495.1 Relocation Costs				
17	1499 Development Activities ⁴				

¹ To be completed for the Performance and Evaluation Report.

² To be completed for the Performance and Evaluation Report or a Revised Annual Statement.

³ PHAs with under 250 units in management may use 100% of CFP Grants for operations.

⁴ RHF funds shall be included here.

Annual Statement/Performance and Evaluation Report
Capital Fund Program, Capital Fund Program Replacement Housing Factor and
Capital Fund Financing Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB No. 2577-0226
Expires 4/30/2011

Part I: Summary					
PHA Name: FLAGSTAFF	Grant Type and Number Capital Fund Program Grant No: AZ20P00650113 Replacement Housing Factor Grant No: Date of CFFP:	FFY of Grant: 2013 FFY of Grant Approval: 2013			
Type of Grant <input type="checkbox"/> Original Annual Statement <input type="checkbox"/> Reserve for Disasters/Emergencies <input type="checkbox"/> Revised Annual Statement (revision no:) <input checked="" type="checkbox"/> Performance and Evaluation Report for Period Ending: 03/31/2014 <input type="checkbox"/> Final Performance and Evaluation Report					
Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost ¹	
		Original	Revised ²	Obligated	Expended
18a	1501 Collateralization or Debt Service paid by the PHA				
18ba	9000 Collateralization or Debt Service paid Via System of Direct Payment				
19	1502 Contingency (may not exceed 8% of line 20)				
20	Amount of Annual Grant:: (sum of lines 2 - 19)	348,130		68,973	13,566
21	Amount of line 20 Related to LBP Activities				
22	Amount of line 20 Related to Section 504 Activities				
23	Amount of line 20 Related to Security - Soft Costs				
24	Amount of line 20 Related to Security - Hard Costs				
25	Amount of line 20 Related to Energy Conservation Measures	169,691			
Signature of Executive Director		Date		Signature of Public Housing Director	
				Date	

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⁴ RHF funds shall be included here.

Annual Statement/Performance and Evaluation Report
Capital Fund Program, Capital Fund Program Replacement Housing Factor and
Capital Fund Financing Program

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB No. 2577-0226
Expires 4/30/2011

[illegible]

² To be completed for the Performance and Evaluation Report.

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB No. 2577-0226
Expires 4/30/2011

¹ Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

Annual Statement/Performance and Evaluation Report
 Capital Fund Program, Capital Fund Program Replacement Housing Factor and
 Capital Fund Financing Program

U.S. Department of Housing and Urban Development
 Office of Public and Indian Housing
 OMB No. 2577-0226
 Expires 4/30/2011

Part I: Summary					
PHA Name: FLAGSTAFF		Grant Type and Number Capital Fund Program Grant No: AZ20P00650114 Replacement Housing Factor Grant No: Date of CFFP:			FFY of Grant: 2014 FFY of Grant Approval: 2014
Type of Grant <input checked="" type="checkbox"/> Original Annual Statement <input type="checkbox"/> Reserve for Disasters/Emergencies <input type="checkbox"/> Revised Annual Statement (revision no:) <input type="checkbox"/> Performance and Evaluation Report for Period Ending: <input type="checkbox"/> Final Performance and Evaluation Report					
Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost ¹	
		Original	Revised ²	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations (may not exceed 20% of line 21)	72,000			
3	1408 Management Improvements	30,000			
4	1410 Administration (may not exceed 10% of line 21)	36,000			
5	1411 Audit				
6	1415 Liquidated Damages				
7	1430 Fees and Costs				
8	1440 Site Acquisition				
9	1450 Site Improvement	108,000			
10	1460 Dwelling Structures	114,000			
11	1465.1 Dwelling Equipment—Nonexpendable				
12	1470 Non-dwelling Structures				
13	1475 Non-dwelling Equipment				
14	1485 Demolition				
15	1492 Moving to Work Demonstration				
16	1495.1 Relocation Costs				
17	1499 Development Activities ⁴				

¹ To be completed for the Performance and Evaluation Report.

² To be completed for the Performance and Evaluation Report or a Revised Annual Statement.

³ PHAs with under 250 units in management may use 100% of CFP Grants for operations.

⁴ RHF funds shall be included here.

Capital Fund Program, Capital Fund Program Replacement Housing Factor and
Capital Fund Financing Program

Office of Public and Indian Housing
OMB No. 2577-0226
Expires 4/30/2011

Part I: Summary					
PHA Name: FLAGSTAFF	Grant Type and Number Capital Fund Program Grant No: AZ20P00650114 Replacement Housing Factor Grant No: Date of CFFP:	FFY of Grant:2014 FFY of Grant Approval: 2014			
Type of Grant <input checked="" type="checkbox"/> Original Annual Statement <input type="checkbox"/> Reserve for Disasters/Emergencies <input type="checkbox"/> Revised Annual Statement (revision no:) <input type="checkbox"/> Performance and Evaluation Report for Period Ending: <input type="checkbox"/> Final Performance and Evaluation Report					
Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost ¹	
		Original	Revised ²	Obligated	Expended
18a	1501 Collateralization or Debt Service paid by the PHA				
18ba	9000 Collateralization or Debt Service paid Via System of Direct Payment				
19	1502 Contingency (may not exceed 8% of line 20)				
20	Amount of Annual Grant:: (sum of lines 2 - 19)	360,000			
21	Amount of line 20 Related to LBP Activities				
22	Amount of line 20 Related to Section 504 Activities				
23	Amount of line 20 Related to Security - Soft Costs				
24	Amount of line 20 Related to Security - Hard Costs				
25	Amount of line 20 Related to Energy Conservation Measures				
Signature of Executive Director		Date	Signature of Public Housing Director		Date

¹ To be completed for the Performance and Evaluation Report.

² To be completed for the Performance and Evaluation Report or a Revised Annual Statement.

³ PHAs with under 250 units in management may use 100% of CFP Grants for operations.

⁴ RHF funds shall be included here.

[illegible]

² To be completed for the Performance and Evaluation Report.

¹ Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

PART I: SUMMARY						
PHA Name/Number FLAGSTAFF AZ006			Locality FLAGSTAFF, COCONINO, AZ		<input type="checkbox"/> Original 5-Year Plan	<input checked="" type="checkbox"/> Revision No: 4
A.	Development Number and Name AZ006000001	Work Statement for Year 1 FFY 2014	Work Statement for Year 2 FFY 2015	Work Statement for Year 3 FFY 2016	Work Statement for Year 4 FFY 2017	Work Statement for Year 5 FFY 2018
B	Physical Improvements Subtotal	Annual Statement			120,000	120,000
C.	Management Improvements					
D.	PHA-Wide Non-dwelling Structures and Equipment					
E	ADMINISTRATION					
F.	Other					
G.	Operations					
H.	Demolition					
I.	Development					
J.	Capital Fund Financing – Debt Service					
K.	Total CFP Funds		-0-	-0-	120,000	120,000
L.	Total Non-CFP Funds					
M.	Grand Total		-0-	-0-	120,000	120,000

PART I: SUMMARY (CONTINUATION)

PHA Name/Number FLAGSTAFF AZ006			Locality FLAGSTAFF, COCONINO, AZ		<input type="checkbox"/> Original 5-Year Plan	<input checked="" type="checkbox"/> Revision No: 4
A.	Development Number and Name AZ006000002	Work Statement for Year 1 FFY 2014	Work Statement for Year 2 FFY 2015	Work Statement for Year 3 FFY 2016	Work Statement for Year 4 FFY 2017	Work Statement for Year 5 FFY 2018
	Physical Improvements	Annual Statement	51,500	262,500		
	Management Improvements					
	TOTAL CFP FUNDS		51,500	262,500		
	HA-WIDE					
	Physical Improvements		391,500			
	Administration		50,000	50,000	50,000	50,000
	Operations		90,000	90,000	90,000	90,000
	Management Improvements		30,000	30,000	30,000	30,000
	TOTAL CFP FUNDS		561,500	186,000	170,000	170,000

Part II: Supporting Pages – Physical Needs Work Statement(s)

Work Statement for Year 1 FFY 2014	Work Statement for Year ____2____ FFY 2015			Work Statement for Year: ____3____ FFY 2016		
	Development Number/Name General Description of Major Work Categories	Quantity	Estimated Cost	Development Number/Name General Description of Major Work Categories	Quantity	Estimated Cost
SEE						
ANNUAL	<i>HA-WIDE</i>			<i>HA-WIDE</i>		
Statement						
	Replace Stoves/Refrigerators	265	291,500			
	Replace/Paint Siding		100,000			
	AZ006000001			AZ006000001		
	AZ006000002			AZ006000002		
	Repair/Replace Parking at Dortha, East Lockett		51,500	Replace Roofing	100	262,500
	Subtotal of Estimated Cost		443,000	Subtotal of Estimated Cost		262,500

Part II: Supporting Pages – Physical Needs Work Statement(s)

Work Statement for Year 1 FFY _____ 2014_____	Work Statement for Year _____4_____ FFY 2017_____			Work Statement for Year: _____5_____ FFY 2018_____		
	Development Number/Name General Description of Major Work Categories	Quantity	Estimated Cost	Development Number/Name General Description of Major Work Categories	Quantity	Estimated Cost
SEE ANNUAL Statement						
	HA-WIDE			HA-WIDE		
	AZ006000001					
	Replace Roofing	40	120,000			
				AZ006000002		
				Replace Siding		120,000
	Subtotal of Estimated Cost		120,000	Subtotal of Estimated Cost		120,000

Part III: Supporting Pages – Management Needs Work Statement(s)

Work Statement for Year 1 FFY 2014	Work Statement for Year ____2____ FFY 2015____		Work Statement for Year: ____3____ FFY 2016____	
	Development Number/Name General Description of Major Work Categories	Estimated Cost	Development Number/Name General Description of Major Work Categories	Estimated Cost
SEE				
ANNUAL				
Statement				
	HA-WIDE		HA-WIDE	
	Annual Software Maintenance Agreement	13,500	Annual Software Maintenance Agreement	13,500
	Annual Software Cloud Agreement	9,600	Annual Software Cloud Agreement	9,600
	Annual Software Training	6,900	Annual Software Training	6,900
	Subtotal of Estimated Cost	30,000	Subtotal of Estimated Cost	30,000

Part III: Supporting Pages – Management Needs Work Statement(s)

Work Statement for Year 1 FFY ____2014____	Work Statement for Year ____4____ FFY ____2017____		Work Statement for Year: ____5____ FFY ____2018____	
	Development Number/Name General Description of Major Work Categories	Estimated Cost	Development Number/Name General Description of Major Work Categories	Estimated Cost
SEE				
ANNUAL				
Statement				
	HA-WIDE		HA-WIDE	
	Annual Software Maintenance Agreement	13,500	Annual Software Maintenance Agreement	13,500
	Annual Software Cloud Agreement	9,600	Annual Software Cloud Agreement	9,600
	Annual Software Training	6,900	Annual Software Training	6,900
	Replace Phone System	16,000		
	Subtotal of Estimated Cost	46,000	Subtotal of Estimated Cost	30,000

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Dan Folke, Planning Director
Co-Submitter: Michael Scheu, Building Official
Date: 03/24/2014
Meeting Date: 04/01/2014



TITLE

Consideration of Ordinance No. 2014-08: An Ordinance of the City Council of the City of Flagstaff, Arizona, amending Flagstaff City Code, Title 4, Building Regulations, by adding a new Chapter 4-10, Uniform Housing Code, 1997 Edition and Amendments ***(Request to postpone action to a date uncertain)***

RECOMMENDED ACTION:

Staff requests City Council postpone Ordinance No. 2014-08 to a date uncertain to allow time to prepare the requested information.

INFORMATION

City Council requested additional information and postponed the item to April 1, 2014. Staff requests additional time to prepare the information and will bring the Ordinance and a revised Staff Summary back when it has all been prepared. Based on the discussion staff will address the following items:

1. Update the agenda item description to fully describe the nature of the amendment.
2. Provide the text of sections which are being deleted and provide a comparison of the current language and the proposed language so that Council can see the technical changes (for example 20" vs. 24").
3. The staff summary will include an explanation of how the Housing Code is administered and how it is applied to non-conforming properties.
4. The staff summary will include an explanation of the mitigation and hearing process when a property owner is cited for a violation of the Housing Code.

Attachments:

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Gregory Jay, Police Sergeant
Co-Submitter: Dan Musselman, Deputy Police Chief (Support Services)
Date: 03/24/2014
Meeting Date: 04/01/2014



TITLE:

Consideration and Approval of Grant Application: Arizona Governor's Office of Highway Safety (GOHS) Federal Fiscal Year 2015 for Police Department Applications for DUI Task Force, and Youth Alcohol Prevention and Interdiction.

RECOMMENDED ACTION:

Approve the application(s) to the Arizona Governor's Office of Highway Safety (GOHS) for grant funds for the Police Department in the amount of \$45,240 for DUI Task Force activities with an additional \$11,459 for speed detection devices, \$44,160 for Youth Alcohol Prevention and Interdiction task force.

Policy Decision or Reason for Action:

- Approval and acceptance of the grant applications to GOHS for the Police Department, D.U.I. Task Force, Speed Detection Devices, and the Youth Alcohol Prevention and Interdiction.
- Without monies allocated by the FY 2015 grant to the Flagstaff Police Department, monies needed to pay scheduled overtime for activities to prevent and control crime may not be available in the City's annual budget.
- This much needed equipment will assist the Flagstaff Police Department to enforce traffic laws with the necessary tools.

Financial Impact:

There is no significant financial impact to the Flagstaff Police Department in terms of expenditures.

Connection to Council Goal:

11. Effective governance

Has There Been Previous Council Decision on This:

Yes, Council has accepted prior-year funded GOHS grants. The Flagstaff Police Department have received these grants for a number of years.

Options and Alternatives:

Approve the Grant Application(s)
Disapprove the Grant Applications(s)

Background/History:

The Flagstaff Police Department considers any loss of life or limb to a drug or alcohol-related, motor vehicle accident unacceptable. We have conducted both in-service and advanced officer training in D.U.I. detection. We have a longstanding tradition of aggressive D.U.I. interdiction and enforcement. Every officer in our organization is held accountable to D.U.I. arrest standards. Each officer working a night shift is expected to achieve a D.U.I. standard performance rating, which is identified as three or more D.U.I. arrests per month. This is done in the interest of protecting life and property through collision reduction. Our interdiction efforts have further been supported with D.U.I. overtime operations such as task force patrols, and directed patrols on weekends and holidays. These efforts are staffed by officers on overtime to enhance effectiveness. Without the financial resources provided for by DUI Task Force grant application, it is difficult, if not impossible, to staff these operations with on-duty officers as they have primary responsibility to respond to all manner of calls for service during their shift.

The Flagstaff Police Department has requested grant funds for the purchase of 10 speed detection devices. These speed detection instruments would provide officers the necessary tools to detect speeding vehicles and reduce speed related collisions. These tools go along with DUI detection and apprehension which makes our city streets safer.

The **Youth Alcohol Prevention and Interdiction grant application** fits in with our mission to protect and preserve life and property. The Flagstaff Police Department has a zero tolerance policy toward alcohol-related crimes including: driving under the influence, minor consumption, misrepresentation of age to purchase alcohol, and contributing to the delinquency of a minor. Related to these ends, the FPD expects each of its patrol officers to pro actively engage in the arrest of liquor violations. Flagstaff Police Department officers are typically attached to patrol squads that work during the evening and night time hours. During their shift, these officers are responsible for answering calls for service while remaining vigilant for alcohol violations. However, we feel that we have the potential to be even more effective and have a greater impact in the area of underage drinking enforcement during known times and locations when these types of violations are more likely to occur. Our proposal concerns the granting of overtime reimbursement funds for directed patrol efforts for the enforcement of underage drinking laws, as well as an educational component.

Key Considerations:

The law-abiding citizens of our community expect and deserve our streets and neighborhoods to be places where they feel safe. The approval of these grant applications will allow us to seek additional resources to help us reduce collisions through removing impaired drivers, underage alcohol prevention and education. The numerous letters and comments the Police Department receives from citizens reinforces this goal.

Community Benefits and Considerations:

The Police Department grant applications will assist the Flagstaff Police Department to prevent and control crime, and administer justice.

Community Involvement:

Inform

Attachments: Flagstaff Police-GOHS 2015 DUI Task Force Grant Application
 Flagstaff Police-GOHS 2015 Youth Alcohol Prevention & Interdiction Grant Application

Cover Page

Project Title Flagstaff Police- Driving Under the Influence Task Force

Total Grant Funding Requested \$56,699.00

Total ERE Percentage 40

Agency Name: City of Flagstaff
Contact Information: 211 West Aspen Avenue
Flagstaff, AZ 86001
Phone: 928-779-7662
Fax: 928-779-7656

Governmental Unit: City of Flagstaff, Flagstaff Police Department
Address: 211 West Aspen, Flagstaff, Az 86001

Project Director: Stacey Brechler-Knaggs
Contact Information: Grants Manager
City of Flagstaff
Flagstaff City Hall
211 West Aspen
Flagstaff, AZ 86001
Phone: (928) 213-2227
Fax: (928) 213-2209
E-mail: sknaggs@flagstaffaz.gov

Project Administrator: Stacey Brechler-Knaggs
Contact Information: Grants Manager
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Fiscal/Financial Contact: Stacey Brechler-Knaggs
Contact Information: Grants Manager
City of Flagstaff
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Flagstaff, AZ 86001
Phone: (928) 213-2227
Fax: (928) 213-2209
E-mail: sknaggs@flagstaffaz.gov

Cover Page

Please upload a cover letter addressed to the Director of the Governor's Office of Highway Safety on agency letterhead. This cover letter **must** be signed by a representative of your agency authorized to commit your agency to conduct the grant should it be approved for funding.

Any proposal received without a cover letter will not be considered for funding by GOHS.

http://egrants.azgohs.gov/_Upload/13007-2015GOHSDUITaskForceCoverLtr.pdf

For GOHS Office use only

Total Proposal

Jurisdiction

Select the Type of Jurisdiction:

City

Select the Type of Agency:

Law Enforcement

Fire Department / District

Non-Profit / Other

Select the County Served:

Coconino County

Proposal Summary

Proposal Summary:

Please include a summary of funding requested by program area (Alcohol, Aggressive Driving, Occupant Protection etc...).

D.U.I. TASKFORCE OPERATIONS

The Flagstaff Police Department, in partnership with our local community, is interested in obtaining grant funding to pay for officer overtime activities associated with increased D.U.I. enforcement. The mission of the Flagstaff Police Department is to preserve life and property. One of our departmental goals is to make our city streets safer by reducing traffic-related injuries and fatalities. We feel that this can best be accomplished by increasing D.U.I. awareness through education about the dangers of driving under the influence and by directed enforcement activities that remove impaired drivers from our streets. The Flagstaff Police Department is committed to making our city streets safer for motorists, bicyclists and pedestrians. Drunk drivers present a real threat to the safety of all persons on or near the highway. The costs associated with the loss of human life, injuries and property damage is an enormous burden on our community. The total amount requested for the D.U.I. Task Force is \$45,240.00.

The Flagstaff Police Department would also like to request grant funds for the purchase of 10 speed detection devices. These speed detection instruments would provide officers the necessary tools to detect speeding vehicles and reduce speed related collisions. These tools go along with DUI detection and apprehension which makes our city streets safer. The total amount requested for the purchase of 10 speed detection devices is \$11,459.34.

Background/Problem:

Provide general characteristics of the agency, including information on population, demographics, and a description of streets and highways in the agency's jurisdiction including road mileage.

Provide general characteristics of the agency, including information on population, demographics, and a description of streets and highways in the agency's jurisdiction including road mileage.

The City of Flagstaff is the county seat of Coconino County. The city sits at approximately 7000 feet above sea level, at this altitude weather conditions significantly effect driving. Snow, rain, wind and fog frequently contribute to hazardous road conditions and collisions. These facts are amplified when impaired drivers are thrown into the mix. Statistical information for vehicles registered in Flagstaff is currently unavailable. However, the Arizona Department of Transportation indicated 172,932 are registered in Coconino County. This does not necessarily include the vehicles registered to the 18,000 plus students enrolled at Northern Arizona University and does not consider our high volume tourist related traffic. The majority of registered vehicles can be associated with Flagstaff and the surrounding commuter communities.

Streets and highways:

With a major University located in our city, both summer and winter tourist activity, we have a large volume of commuter and tourist vehicle traffic. Major roadways within our community include: Interstate 17, Interstate 40, U.S. Highway 89, U.S. Highway 180, and Historic Route 66. There are approximately 35 miles of state owned highways in the City of Flagstaff. These highways account for large numbers of interstate vehicles in transit. The local economy is dependant on tourism. The City of Flagstaff contains approximately 65 square miles, which is serviced by approximately 634 lane miles of surfaced roadways. The major commuter accessible corridors account for approximately 20 miles of road surface. The majority of impaired drivers either interdicted or arrested after being involved in a collision are found on these roads.

Proposal Summary

Problem Statement:

What problem is your agency looking to solve with this grant? Provide appropriate data to support funding. In keeping with our mission to protect citizens, and in conjunction with area D.U.I. taskforce operations, the Flagstaff Police Department expects each of its patrol officers to proactively engage in the arrest of drunk drivers. These police officers are typically attached to patrol squads that work during the evening and nighttime hours. During their shift, these officers are responsible for answering calls for service while remaining vigilant for D.U.I. offenders.

The average D.U.I. arrest rate for a community of our size based on data from the ICMA Comparative Performance Measurement FY 2012 Data report in 2012 was 4.1 D.U.I. arrests per 1,000 population. Our tenacious efforts led to 622 D.U.I. arrests in 2013 which works out to an arrest rate of 9.6 D.U.I. arrests per 1,000 population. This was double the number of arrests which most communities of our size are reporting. Comparative data has not yet been released for 2013. However, we suspect our arrest rate of 9.6 D.U.I. arrests per 1,000 population will still be double that of comparative communities based on our aggressive enforcement (622 D.U.I. arrests, 65,000 population, = 9.6 D.U.I. arrest rate).

Despite the aggressive D.U.I. arrest rate, we feel that we have the potential to be even more effective and have a greater impact in the area of total D.U.I. detection and apprehension during peak hours. For the three-year period of 2011 through 2013, the Flagstaff Police Department made a total of 2,229 D.U.I. arrests. During this same period, the department had a total of 7,718 motor vehicle collisions. This accident total includes 1,126 state collisions where injuries were reported and 14 state collisions where fatalities were reported. Again, for the same period the Flagstaff Police Department issued 5,675 civil speed citations, 21 of which were issued for aggressive driving and 25 for criminal speed.

During this three year period, we had 62 injury collisions and 2 fatal collisions that were alcohol related, 319 injury collisions were speed related out of 1,126 total injury accidents. This shows that 5.7% of our injury collisions are alcohol related, and 28% are speed related, which we feel is unacceptable. We feel there is a direct correlation between the removal of impaired drivers from the roadways and the reduction of alcohol and/or drug related injury or fatality motor vehicle accidents. Our proposal concerns the granting of overtime reimbursement funds for directed patrol efforts at interdiction of impaired drivers. In addition, we would like to supply officers with the necessary tools to perform their jobs and is the reason we are asking for speed detection devices. As listed above, our officers have achieved some success to date while working regular shifts and handling responsibilities for all calls for service. We would like to deploy enforcement specific officers, specifically on special weekends and holidays where an increase in impaired driving can be anticipated.

If you have additional information, please upload:

Attempts to Solve Problem

Attempts to Solve Problem:

Identify past attempts to solve the problem identified in your proposal.

The Flagstaff Police Department considers any loss of life or limb to a drug or alcohol-related, motor vehicle accident unacceptable. Our desire is to combat this situation by incorporating community-oriented policing and Comp-Stat strategies into our patrol and enforcement efforts. We have a long standing tradition of aggressive D.U.I. interdiction and enforcement. Every officer in our organization is held accountable to D.U.I. arrest standards. Each officer working a night shift is expected to make at least three D.U.I. arrests per month to achieve a standard performance rating. This is done in the interest of protecting life and property. We have conducted both in-service and advanced officer training in D.U.I. detection. Past patrol efforts to resolve this community challenge have proven very successful, with demonstrable reductions in vehicle collisions where alcohol was a factor. These efforts have been supported with D.U.I. overtime operations such as task force patrols, and directed patrols on weekends and holidays. These efforts are staffed by officers on overtime to enhance effectiveness. Without these approaches it is difficult, if not impossible, to staff these operations with on-duty officers as they have primary responsibility to respond to a variety of calls for service during their shift.

Project Objectives, Methods of Procedure, Performance Measures: Project 1

Title: Project 1

Objectives of the projects in your proposal should follow the SMART method. They should be:

S = Specific

M = Measurable

A = Action-Oriented

R = Realistic

T = Time-Framed

Project Objectives:

The project objectives should be stated in measurable terms directly related to the identified problem, concise and deal with a specific item, realistic, with a reasonable probability of achievement and related to a specific time frame.

Our objective is to significantly reduce impaired driving in the Flagstaff community by emphasizing traffic-related enforcement:

D.U.I. Enforcement Program:

- D.U.I. enforcement officers specifically detailed to detect and apprehend impaired drivers during strategic times during target days.
- Two officers would be assigned on Thursday, Friday, and/or Saturday nights from 9:00pm until 3:00am until grant funds have been depleted.
- Holiday D.U.I. enforcement: Officers would be assigned to D.U.I. enforcement during holiday weekends that are characterized by an increase in traffic fatalities and injuries associated with impaired driving. These holiday weekends include (but are not limited to) New Years Eve, Labor Day, St. Patrick's Day, the Memorial Day Weekend, 4th of July and two annual graduation weekends for Northern Arizona University. This holiday enforcement would continue until grant funds have been depleted.
- D.U.I. enforcement officers will be vigilant for safety belt and child restraint violations.

Method of Procedure:

Detail how your agency will solve the problem and meet the objectives you have set.

October 1, 2014 – December 31, 2014

ENFORCEMENT:

Holiday Task Force Patrols for Thanksgiving Weekend, December Holiday Weekend, and New Years Holiday Weekend, with five additional task force patrols.

EDUCATION/PREVENTION:

Officers will attend 3 D.U.I. impact panels (6 hrs.)

Conduct a two hour presentation at the Law Enforcement Citizens Academy.

Six hours performing outreach at various city sponsored events.

January 1, 2015- March 31, 2015

ENFORCEMENT:

Five Task Force Patrols, including St. Patrick's Day and Spring Break.

Project Objectives, Methods of Procedure, Performance Measures: Project 1

EDUCATION/PREVENTION:

Officers will attend 3 D.U.I. impact panels (6 hrs.)

Six hours performing outreach at various city sponsored events.

April 1, 2015 – June 30, 2015

ENFORCEMENT:

5 Task Force Patrols to include; Prom weekend, end of semester, graduation and Memorial Day.

EDUCATION/PREVENTION:

Officers will attend 3 D.U.I. impact panels (6 hrs.)

2 hour presentation at the Law Enforcement Citizens Academy.

6 hours performing outreach at city sponsored events.

8 hours staffing the graduation night alternative alcohol free venue.

July 1, 2015 –September 30, 2015

ENFORCEMENT:

5 task force patrols, including 4th of July and Labor Day Weekend.

EDUCATION/PREVENTION:

Officers will attend 3 D.U.I. impact panels (6 hrs.)

6 hours performing outreach at various city sponsored events.

24 hours of alcohol abuse prevention outreach for the Coconino County Fair.

Five 2 hour blocks for outreach at city sponsored Concerts in the Park.

Elimination of the problem of impaired driving is difficult if not impossible. Our objective is to mitigate impaired driving to the best of our ability, with what resources are available. We aspire to achieve this objective by educating the community at large about the dangers of impaired driving, the importance of defensive driving and by advertising our directed patrol efforts targeting impaired driving, via local media outlets. We have taken a three pronged approach to do so which includes D.U.I. prevention and education, community based initiatives, and aggressive enforcement.

D.U.I. prevention and education:

-D.U.I. Prevention starts with Officers conducting presentations at the drivers education classes which are held in our three local high schools.

-Prior to Prom weekend Officers spend several hours at the two local high schools speaking about the unintended consequences of poor decision such as drinking and driving.

-Officers also conduct bi-annual presentations to our citizen academy on D.U.I. investigations and the dangers of impaired driving.

-D.U.I. Prevention is furthered by our day and nighttime walking beats, that walk the downtown bar district. These officers spend significant time in our liquor establishments in an effort to limit over-serving and checking for underage consumption.

-The Flagstaff Police Department has met with our Downtown Bar Association prior to the holidays to educate them on Title 4 laws and our zero tolerance policy towards alcohol related violations. We teamed up with the Northern Arizona Center Against Sexual Assault, which also used the venue to educate bar

Project Objectives, Methods of Procedure, Performance Measures: Project 1

employees about date rape and club drugs, to help prevent sexual assaults.

-Officers conduct community outreach presentations at monthly D.U.I. Impact Panels and staff educational booths during city special events (movies on the square, art in the park, Flagstaff City open house, and Teen Court) throughout the year.

Community Partner Initiatives:

-In 2005 the Police Department partnered with the City, County, Navajo Nation, The Guidance Center, and other community leaders to establish the Alcohol Stabilization Unit, which is a detoxification facility that promotes short and long term treatment for alcoholism.

-The Coconino County Jail now offers an in-custody rehabilitation (EXODUS) program for D.U.I. offenders.

-Coconino County has also established a D.U.I. and Drug court to hold offenders more accountable and get them more specialized sanctions and treatment options.

-The Coconino Criminal Justice Coordinating Council is currently working with multiple community partners to maintain a Serial Inebriate program further help with treatment and accountability for those addicted to alcohol.

Aggressive Enforcement:

-The Flagstaff Police Department has made removing impaired drivers one of its highest priorities, which supports its mission of protecting and preserving life and property.

-All Flagstaff Police Department patrol officers are held accountable to our minimum performance standards of three D.U.I. arrests per month while working a night shift.

-Patrol supervisors are diligent in seeking out D.U.I. detection training for their officers, including training in horizontal gaze nystagmus, D.U.I. detection, Advanced Roadside Impaired Driver Enforcement and how to write search warrants to draw blood on D.U.I. investigations.

-The Flagstaff Police Department has taken advantage of phlebotomy training, and currently has 8 officers trained in drawing blood, which helps strengthen our D.U.I. cases.

-In July 2012, 3 officers with the Flagstaff Police Department completed training and received certification in drug recognition expert.

If approved the funds from this grant will allow us to further our prevention, education, enforcement and ultimately help us reach our goal of making our streets safer.

Performance Measures:

Establish measurable goals for your proposal. Example: "To decrease alcohol related fatalities 10% from the 2012 base year average of 250 to 225 by September 30, 2014." "To increase DUI arrests 10% above the 2008 base year average of 5,000 to 5,500 by September 30, 2014."

Your agency should enumerate the objectives of the project in this section. Example: "To participate in 4 DUI Task Forces by September 30, 2014." "To participate in 8 speed enforcement details by September 30, 2014."

With the added resources from the Governor's Office of Highway safety, our goals are as follows:

- To reduce the total number of alcohol related accidents by 5% this year. Our three year average was 78 alcohol related accidents for the years of 2011, 2012, and 2013. Our goal is to have less than 74 in 2014 and 66 in 2015.

Project Objectives, Methods of Procedure, Performance Measures: Project 1

- To reduce the number of alcohol injury accidents by 5% as well. Our three year average was 21 alcohol related injury accidents for the years of 2011, 2012, and 2013. Our goal is to have less than 20 in 2014 and 19 in 2015.
- Our D.U.I. goal for calendar year 2014 is 779 arrests with a 5% increase for 2015 which is 783 D.U.I. arrests. This will be an increase of 157 arrests for 2014 from the 622 D.U.I. arrests made in 2013.
- To conduct at least four educational or prevention events by the end of each quarter.
- To conduct a minimum of four task force events by the end of each quarter

Traffic Data Summary - Law Enforcement

Please include the following traffic data to support the identified problem in your proposal:

Description	2013	2012	2011
Total Fatal Collisions	3	6	5
Total Injury Collisions	352	395	379
Total Collisions Investigated	2554	2630	2534
Alcohol-Related Fatalities	0	1	1
Alcohol-Related Injuries	19	17	26
Speed-Related Fatalities	0	0	0
Speed-Related Injuries	100	99	120
Pedestrian Fatalities	2	2	3
Pedestrian Injuries	28	32	39
Bicycle Fatalities	0	1	1
Bicycle Injuries	42	64	56
Total DUI Arrests	653	880	789
Total Misdemeanor DUI Arrests	531	725	672
Total Aggravated DUI Arrests	122	155	117
Total Extreme DUI .15 Arrests	257	337	317
Total DUI-Drug Arrests	74	101	92
Total DRE Evaluations	0	0	0
Sober Designated Drivers	0	0	0
Underage Alcohol Violations-Title 4	470	747	769
Underage DUI Arrests	46	61	79
Underage DUI-Drug Arrests	26	24	22
Total Agency Citations	9891	10410	12828
Criminal Speed Citations	10	These three categories of citations will be broken down by statute starting in mid – 2013 Calendar year	
Aggressive Driving Citations	2		
Civil Speed Citations	1922		
Other Citations	7571	8568	10883
Red Light Running Citations	386	307	435
Seat Belt Citations	160	271	531
Child Safety Seat Citations	141	154	157

Personnel Services

Description

D.U.I. TASKFORCE OPERATIONS

1) Weekly Special Traffic Enforcement Program: (Thursday, Friday and /or Saturday nights)

• \$60 per hour x 2 officers x 12 hrs per week x 20 weeks = \$28,800

2) Holiday D.U.I. Task Force Patrols, Including:

July 4th Weekend,

• \$60 per hour x 2 officers x 6hrs per day x 3 days =\$2,160.00

Labor Day Weekend,

• \$60 per hour x 2 officers x 6hrs per day x 3 days =\$2,160.00

Thanksgiving Day Weekend

• \$60 per hour x 2 officers x 6 hours per day x 3 days =\$2,160.00

December Holiday Weekend

• \$60 per hour x 2 officers x 6 hours per day x 3 days =\$2,160.00

New Years Weekend

• \$60 per hour x 2 officers x 6 hours per day x 3 days =\$2,160.00

3) D.U.I. Prevention Outreach

• Quarter 1- \$60 Per hour X 14 hours = \$840

• Quarter 2- \$60 Per hour X 12 hours = \$720

• Quarter 3- \$60 Per hour X 22 hours = \$1320

• Quarter 4- \$60 Per hour X 46 hours = \$2760

Totals:

Total Holiday D.U.I. Task Force Overtime Patrols = \$10,800

Total Weekly Special Traffic Enforcement Program patrols = \$28,800

Total D.U.I. Prevention Outreach = \$5,640

TOTAL GRANT REQUEST =\$45,240

Personnel Services:**Employee Related Expenses:**

Description	Requested Amount	ERE %	ERE Amount	Overtime Amount
Holiday DUI Task Force	\$10,800	40%	\$3,086	\$7,714
Weekly Traffic Enforcement	\$28,800	40%	\$8,229	\$20,571
DUI Prevention Outreach	\$5,640	40%	\$1,611	\$4,029
		%	\$0	\$0
		%	\$0	\$0

Personnel Services

		%	\$0	\$0
		%	\$0	\$0
		%	\$0	\$0
		%	\$0	\$0
		%	\$0	\$0
Total:	\$45,240		\$12,926	\$32,314

Description

TOTAL REQUEST = \$11,459.34

Description	Quantity	Price Per Unit	Tax	Shipping	Amount
Radar Units	10	\$1,049.39	\$965.44	\$0	\$11,459
					\$0
					\$0
					\$0
					\$0
					\$0
					\$0
					\$0
					\$0
					\$0
Total					\$11,459

Total Estimated Cost

Budget Item	Amount	
Personnel Services	\$32,314	
Employee Related Expenses	\$12,926	40%
Professional and Outside Services	\$0	
Travel In-State	\$0	
Travel Out-of-State	\$0	
Materials and Supplies	\$0	
Capital Outlay	\$11,459	
Total Estimated Cost	\$56,699	

Cover Page

Project Title Flagstaff Police - Youth Alcohol Prevention & Inderdiction

Total Grant Funding Requested \$44,160.00

Total ERE Percentage 40

Agency Name: City of Flagstaff
Contact Information: 211 West Aspen Avenue
Flagstaff, AZ 86001
Phone: 928-779-7662
Fax: 928-779-7656

Governmental Unit: City of Flagstaff, Flagstaff Police Department
Address: 211 West Aspen, Flagstaff, Az 86001

Project Director: Stacey Brechler-Knaggs
Contact Information:

Project Administrator: Stacey Brechler-Knaggs
Contact Information:

Fiscal/Financial Contact: Stacey Brechler-Knaggs
Contact Information:

Please upload a cover letter addressed to the Director of the Governor's Office of Highway Safety on agency letterhead. This cover letter **must** be signed by a representative of your agency authorized to commit your agency to conduct the grant should it be approved for funding.

Any proposal received without a cover letter will not be considered for funding by GOHS.

http://egrants.azgohs.gov/_Upload/13163-2015AllGOHSYthAlcoholCoverLtr.pdf

For GOHS Office use only
Total Proposal

Jurisdiction

Select the Type of Jurisdiction:

City

Select the Type of Agency:

Law Enforcement

Fire Department / District

Non-Profit / Other

Select the County Served:

Coconino County

Proposal Summary

Proposal Summary:

Please include a summary of funding requested by program area (Alcohol, Aggressive Driving, Occupant Protection etc...).

The Flagstaff Police Department (FPD) respectfully requests \$44,160.00 in grant funds from the Arizona Governor's Office of Highway Safety for the purpose of educating youth on the dangers of alcohol and enforcing underage drinking laws. This enforcement campaign will continue once the grant funds are awarded and we receive authorization to proceed.

Background/Problem:

Provide general characteristics of the agency, including information on population, demographics, and a description of streets and highways in the agency's jurisdiction including road mileage.

The City of Flagstaff is the county seat of Coconino County. The city sits at approximately 7000 feet above sea level; at this altitude weather conditions significantly effect driving. Snow, rain, wind and fog frequently contribute to hazardous road conditions and collisions. These facts are amplified when impaired drivers are thrown into the mix. Statistical information for vehicles registered in Flagstaff is currently unavailable. However, the Arizona Department of Transportation indicated 172,932 are registered in Coconino County. This does not necessarily include the vehicles registered to the 18,000 students enrolled at Northern Arizona University and does not consider our high volume of tourist related traffic. The majority of registered vehicles can be associated with Flagstaff and the surrounding commuter communities.

Streets and highways:

With a major University located in our city, both summer and winter tourist activity, we have a large volume of commuter and tourist vehicle traffic. Major roadways within our community include: Interstate 17, Interstate 40, U.S. Highway 89, U.S. Highway 180, and Historic Route 66. There are approximately 35 miles of state owned highways in the City of Flagstaff. These highways account for large numbers of interstate vehicles in transit. The local economy is dependant on tourism. The City of Flagstaff contains approximately 65 square miles, which is serviced by approximately 634 lane miles of surfaced roadways. The major commuter accessible corridors account for approximately 20 miles of road surface. The majority of impaired drivers either interdicted or arrested after being involved in a collision are found on these roads.

Problem Statement:

What problem is your agency looking to solve with this grant? Provide appropriate data to support funding. The city of Flagstaff has a visible underage population. There are two college campuses within the city limits; Northern Arizona University and Coconino Community College. In addition to the two public high schools in the area, there are also several charter schools. In Flagstaff, health, social and economic problems result from the use of alcohol by underage drinkers. Each year we experience a large amount of underage house parties that result in quality of life issues for law abiding citizen's within the community. This grant proposal will provide information on underage alcohol arrests in Flagstaff for the last three years. It will show the traditional and non-traditional strategies we have used to try and address the problem, and provide a breakdown of how these grant funds will be used in the future. For the years 2011 through 2013 the following statistics are provided. These figures represent alcohol related arrests made by officers of Flagstaff Police Department for persons less than 21 years of age.

2011 2012 2013

Underage DUI arrests 79 61 46

Underage DUI-Drug arrests 22 24 26

Underage Liquor Violations 769 747 470

Proposal Summary

The direct and collateral consequences of underage drinking can not be over stated. These consequences include medical care, work loss, and anguish caused by the behavioral problems associated with the use of alcohol by underage drinkers. Underage drinking causes multiple problems including injuries, homicides, suicides, sexual assault, date rape, and other criminal behavior. The FPD is determined to provide a safe environment for our citizens by increasing law enforcement efforts in the areas of education and enforcement of underage drinking laws.

The Flagstaff Police Department is a law enforcement agency comprised of 114 sworn officers who serve approximately 60,000 residents. However, in 2013 the Flagstaff Police Department had a 25% decrease in its patrol officers. In keeping with our mission to protect and preserve life and property, the Flagstaff Police Department has a zero tolerance policy towards alcohol related crimes including: Driving under the influence, minor consumption, misrepresentation of age to purchase alcohol, and contributing to the delinquency of a minor. Related to these ends, the FPD expects each of its patrol officers to proactively engage in the arrest of liquor violations. Flagstaff Police Department officers are typically attached to patrol squads that work during the evening and nighttime hours. During their shift, these officers are responsible for answering calls for service while remaining vigilant for alcohol violations. These tenacious efforts by our patrol officers have been demonstrated to be successful. However, we feel that we have the potential to be even more effective and have a greater impact in the area of underage drinking enforcement during known times and locations when these types of violations are more likely to occur. Our proposal concerns the granting of overtime reimbursement funds for directed patrol efforts for the enforcement of underage drinking laws, as well as an educational component.

We would continue to deploy enforcement specific officers, specifically on weekends, holidays and specific school events/holidays/vacations where an increase in youth liquor violations are more likely to occur. The snapshot of the underage drinking problem in Flagstaff is apparent in looking at a study on social norms conducted in 2011. In 2011, the Coconino County Alliance Against Drugs in collaboration with Citizen's Against Substance Abuse and Flagstaff Unified School District (FUSD) conducted a survey on FUSD students and found the following disturbing trends:

- 17.8 % of youth tried alcohol before the 6th grade (16.6% in 2010)
- Grades 7, 8, 9 and 10 documented the highest percentages of onset of alcohol use with percentages of 9.6%, 9.7%, 14.2% and 9.3%.
- 71.6% students of FUSD used alcohol at least once in the past 30 days.
- 11.2% of middle school youth believe that occasionally "getting drunk" is okay as long as it does not interfere with academics or responsibilities (17.8% in 2010).
- 19.4% of middle school students in 2011 believe "Drinking is alright but a student should never get drunk."

If you have additional information, please upload:

Attempts to Solve Problem

Attempts to Solve Problem:

Identify past attempts to solve the problem identified in your proposal.

The Flagstaff Police Department has instituted a zero tolerance policy towards alcohol related violations. Our efforts to combat underage drinking include using community-oriented policing and Comp-Stat strategies which put resources on the street at the most likely time and locations of violations. We developed a two person, "Party Response Patrol" that responds to loud party disturbances in our large field transport van with other officers. This show of force allows us to stop underage people from fleeing in vehicles, and better enforcement of liquor laws. The use of portable breath testing devices in the field has helped us capture alcohol concentration before it dissipates and assists us greatly in prosecution. Past patrol efforts to resolve this community challenge have proven very successful, with demonstrable increases in the issuing of citations to both those over and under the age of 21 for liquor violations. These efforts have been traditionally accomplished by officers on regular shifts who are tied to answering calls for service along with proactive education and enforcement initiatives. Due to the officer's requirement to answer calls for service, they are limited in the time and effort they can devote to working on underage liquor violations. If grant funds are available we will be able to enhance our effectiveness.

Project Objectives, Methods of Procedure, Performance Measures: Project 1

Title: Project 1

Objectives of the projects in your proposal should follow the SMART method. They should be:

S = Specific

M = Measurable

A = Action-Oriented

R = Realistic

T = Time-Framed

Project Objectives:

The project objectives should be stated in measurable terms directly related to the identified problem, concise and deal with a specific item, realistic, with a reasonable probability of achievement and related to a specific time frame.

The goal of the Flagstaff Police Departments 2014 Enforcement of Underage Drinking laws Project is to provide a safe environment for our citizens by reducing the use of alcohol among underage drinkers and the damage that occurs as a result of their poor choices. Our goal is a 5% increase, from the previous three year average 662 for underage alcohol violation arrests. Our goal for 2014 would be 695 and 729 for 2015. With the social norms that seem to support underage consumption we understand that it is imperative we focus on those who are providing alcohol to those who are underage as well.

Our goal will be accomplished by a combination of enforcement efforts and public education.

Education:

Increase public awareness of the dangers of underage drinking through quarterly public service announcements and conduct a yearly presentation to our downtown bar association members. Increased education of the vulnerable populations via school presentations (SRO, Drivers Education, Challenge Program), and the support of alternative alcohol free venues after major school events (Homecoming, Prom after hours, Graduation night).

Enforcement:

Increased enforcement at underage parties by party patrols, frequent walk-throughs of local bars close to campus, covert underage buying stings that target suspected alcohol providers, which will result in a 5% increase in liquor violation citations written.

Activities:

If grant funding is received, it will be utilized to pay for overtime required to staff directed (specialized) patrol efforts to target the purchase and consumption of alcohol by underage drinkers. The following operations will be utilized:

Party Response Patrol Team for the prevention and dispersal of underage drinking parties. The consumption of alcohol at private parties is one of the most common ways for underage drinkers to obtain alcohol and consume it without consequences. Large parties present special enforcement challenges and require nontraditional techniques such as the use of a prisoner transport van, processing vehicle, additional personnel to secure and investigate the responsible party and purchaser of the alcohol.

Increased Foot Patrols in the downtown area during high activity times, such as New Years Eve,

Project Objectives, Methods of Procedure, Performance Measures: Project 1

Homecoming weekend, Tequila Sunrise, St. Patrick's Day, Fourth of July, and others to send the message to bar owners, and prospective underage consumers that underage drinking is a crime and will not be tolerated.

Uniformed and plain clothes support for covert underage buyer initiatives. This will provide additional resources to staff law enforcement personnel to assist with these labor intensive operations. This provides for increased officer safety, more initiatives and processing assistance.

Community Support Meetings on the prevention of underage drinking, over-serving, and detection of falsified identifications can be provided to local bar owners utilizing funds from this grant.

Public Service Announcements and presentations will continue to be provided to the community in partnership with Citizens Against Substance Abuse, Northland Family Help Center, Flagstaff Unified School district, and The Guidance Center.

Method of Procedure:

Detail how your agency will solve the problem and meet the objectives you have set.

Our goals will be accomplished by a combination of enforcement efforts and public education.

October 1, 2014 – December 31, 2014

- Receive and accept the grant award
- Conduct four nights of party response patrols including Homecoming and New Years Eve
- Staff four downtown bar patrols for liquor violations (Homecoming, Tequila Sunrise, Halloween, New Years Eve).

January 1, 2015- March 31, 2015

- Conduct four nights of party response patrols including opening weekend of NAU and St. Patrick's Day.
- Staff four downtown bar patrols for liquor violations (Spring Break, Martin Luther King Jr. weekend, and St. Patrick's Day).

April 1, 2015 – June 30, 2015

- Conduct four nights of party response patrols including Prom and Graduation
- Staff four downtown bar patrols for liquor violations (Cinco De Mayo, Memorial weekend, High school graduation, NAU Graduation).

July 1, 2015 –September 30, 2015

- Conduct four nights of party response patrols including Fourth of July and Labor Day weekend.
- Staff four downtown bar patrols for liquor violations (Fourth of July, NAU back in Session, and Labor Day weekend).

Performance Measures:

Establish measurable goals for your proposal. Example: "To decrease alcohol related fatalities 10% from the 2012 base year average of 250 to 225 by September 30, 2014." "To increase DUI arrests 10% above the 2008 base year average of 5,000 to 5,500 by September 30, 2014."

Project Objectives, Methods of Procedure, Performance Measures: Project 1

Your agency should enumerate the objectives of the project in this section. Example: "To participate in 4 DUI Task Forces by September 30, 2014." "To participate in 8 speed enforcement details by September 30, 2014."

With the added resources from the Governor's Office of Highway safety, our goals are as follows:

- To have a 5% increase in the number of liquor violation citations, from the three year average (662), which will be 695 underage liquor violation citations for 2014.
- To staff four party response patrols per quarter on the appropriate weekends.
- To conduct four downtown walking details either in uniform or undercover by the end of each quarter.
- To conduct at least four educational or prevention events by the end of each quarter.
- To conduct eight "Covert Underage Buyer" Projects during the course of the grant.

Traffic Data Summary - Law Enforcement

Please include the following traffic data to support the identified problem in your proposal:

Description	2013	2012	2011
Total Fatal Collisions	3	6	5
Total Injury Collisions	352	395	379
Total Collisions Investigated	2554	2630	2534
Alcohol-Related Fatalities	0	1	1
Alcohol-Related Injuries	19	17	26
Speed-Related Fatalities	0	0	0
Speed-Related Injuries	100	99	120
Pedestrian Fatalities	2	2	3
Pedestrian Injuries	28	32	39
Bicycle Fatalities	0	1	1
Bicycle Injuries	42	64	56
Total DUI Arrests	653	880	789
Total Misdemeanor DUI Arrests	531	725	672
Total Aggravated DUI Arrests	122	155	117
Total Extreme DUI .15 Arrests	257	337	317
Total DUI-Drug Arrests	74	101	92
Total DRE Evaluations	0	0	0
Sober Designated Drivers	0	0	0
Underage Alcohol Violations-Title 4	470	747	769
Underage DUI Arrests	46	61	79
Underage DUI-Drug Arrests	26	24	22
Total Agency Citations	9891	10410	12828
Criminal Speed Citations	10	These three categories of citations will be broken down by statute starting in mid – 2013 Calendar year	
Aggressive Driving Citations	2		
Civil Speed Citations	1922		
Other Citations	7571	8568	10883
Red Light Running Citations	386	307	435
Seat Belt Citations	160	271	531
Child Safety Seat Citations	141	154	157

Personnel Services

Description

Party Response Patrol Teams to work high contact weekends, four per quarter including but not limited to; the start of school, homecoming, spring break, graduation, St. Patrick's Day, New Years Eve.

- \$60 per hour x 2 officers x 10 hrs per detail x 16 details = 320 hours or (\$19,200)

Four walking beat patrols in the downtown bar area per quarter.

- \$60 per hour x 2 officers x 10 hrs per week x 16 details = 320 hours or (\$19,200)

Officers to conduct educational presentations to at risk populations at four per quarter.

- \$60 per hour x 1 officers x 8 hrs per quarter x 4 quarters = 32 hours or (\$1,920)

Officers to conduct covert buy operations two per quarter.

- \$60 per hour x 2 officers x 8 hrs per quarter x 4 quarters = 64 hours or (\$3840)

Total amount of the grant request: \$44,160.00

Personnel Services:**Employee Related Expenses:**

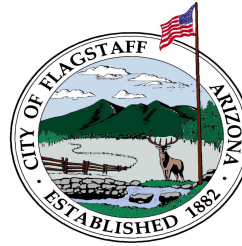
Description	Requested Amount	ERE %	ERE Amount	Overtime Amount
Walking Beat (Bar areas)	\$19,200	40%	\$5,486	\$13,714
Party Response Patrol	\$19,200	40%	\$5,486	\$13,714
EUDL Prevention Outreach	\$1,920	40%	\$549	\$1,371
Covert Buy Staffing	\$3,840	40%	\$1,097	\$2,743
		%	\$0	\$0
		%	\$0	\$0
		%	\$0	\$0
		%	\$0	\$0
		%	\$0	\$0
		%	\$0	\$0
Total:	\$44,160		\$12,618	\$31,542

Total Estimated Cost

Budget Item	Amount	
Personnel Services	\$31,542	
Employee Related Expenses	\$12,618	40%
Professional and Outside Services	\$0	
Travel In-State	\$0	
Travel Out-of-State	\$0	
Materials and Supplies	\$0	
Capital Outlay	\$0	
Total Estimated Cost	\$44,160	

CITY OF FLAGSTAFF STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Stacey Brechler-Knaggs, Grants Manager
Co-Submitter: Stacey Button, Economic Vitality Director
Date: 03/24/2014
Meeting Date: 04/01/2014



TITLE:

Consideration and Approval of an Intergovernmental Agreement: Between the City of Flagstaff and Northern Arizona University (NAU) for financial contribution to the Innovation Mesa Business Accelerator Project.

RECOMMENDED ACTION:

Approve the Intergovernmental Agreement (IGA) with NAU for the Innovation Mesa Business Accelerator Project in the amount of \$1,100,000 for the purpose of funding the Design and Construction of the project facility.

Policy Decision or Reason for Action:

NAU was awarded \$1.0 million from the Arizona Commerce Authority (ACA), and will provide an additional \$100,000 to partner with the City of Flagstaff and Northern Arizona Center for Entrepreneurship and Technology (NACET). Acceptance of the IGA will provide the remaining funds needed to design and construct the Innovation Mesa Business Accelerator.

Financial Impact:

The total project cost is estimated to be \$7,762,500. Funding is broken down as follows:

- \$4,000,000 - Federal Economic Development Administration Grant
- \$2,662,500 - City match via Bond capacity reimbursed through lease revenue
- \$1,100,000 - Northern Arizona University

Connection to Council Goal:

- Retain, expand, and diversify economic base
- Effective governance

Has There Been Previous Council Decision on This:

- Yes, Council approved the EDA grant on November 6, 2012, for the Innovation Mesa Business Accelerator.
- Yes, Council approved an initial IGA with NAU on July 16, 2013; however, it was never executed because NAU was continuing to negotiate their agreement with ACA. The current IGA being considered reflects a fully negotiated agreement between the City and NAU, based on the signed agreement between NAU and ACA.

Options and Alternatives:

- Approve the IGA between the City and NAU to allow the funding for the project.
- Reject the IGA between the City and NAU which would not allow the project to proceed, or the City would have to provide the remaining funds.

Background/History:

The Science and Technology Park was conceived in 2003, and during the 2004 election bonds in the amount of \$61.2 million were approved by the voters to advance the project. The bonds are paid with revenue from the project and not property tax revenue. McMillan Mesa was chosen as an ideal site due to the existing, nearby USGS Campus. Through investigation, a critical part of the science park would be a business incubator for entrepreneurs and business start-ups. An overall science park master plan was developed around 2005.

The master plan included a remodeled USGS Campus, a 10,000 square foot business incubator, and a science park on nine acres of adjacent land. The business incubator was constructed in 2008 through a U.S. Department of Commerce Economic Development Administration (EDA) grant and is currently operated by Northern Arizona Center for Entrepreneurship and Technology (NACET), a separate private non-profit.

The Innovation Mesa Business Accelerator and Emergency Operations Center is intended to be the first of three buildings located adjacent to the USGS Campus and the business incubator, and will include a 25,000 square foot building featuring wet and dry labs/office space (80%) and light manufacturing space (20%), a conference room/alternate secondary EOC, and server facilities. The primary purpose of the Business Accelerator is to provide space for Tier 2 companies and graduates of NACET, as well as grow business startups and advance entrepreneurship and economic gardening programs within the region, and to retain and expand existing businesses through the creation of 300 jobs and \$20 million in private investment. The building will feature a secondary or alternate EOC (as part of the conference room) should disaster related circumstances arise and warrant the need by either City and/or County personnel. It is not the City's intent to develop the remaining 50,000 square feet of this campus. Rather, upon completion of the Business Accelerator, an evaluation will be done with Council to determine the disposition of the remaining development.

Key Considerations:

The Innovation Mesa Project is a shared vision with federal, state, local, and private entities. This collaborative partnership involves the City of Flagstaff, Northern Arizona University, Economic Collaborative of Northern Arizona, Northern Arizona Council of Governments, U.S. Department of Commerce Economic Development Administration, and the Northern Arizona Center for Entrepreneurship and Technology. This collaborative partnership has already shown a proven ability to work together to advance the economic needs of the region.

More specifically, this project will allow NAU to house its expanded venture acceleration and ongoing business incubation work on Innovation Mesa. This will be an important step forward for Northern Arizona, the City and NAU in accelerating job creation and capital investment through:

- Access to the technical expertise, mentoring, and consulting of NAU business and engineering faculty, NAU economic development practitioners, research faculty, MBA and engineering graduate students, interns, engineering, marketing, finance, and laboratory equipment.
- Intellectual property and technology transfer developed by NAU and cooperating universities such as ASU, UA, MIT, Stanford, and many more.
- Connections to local, state, and national business incubation and acceleration resources.

- Assistance and access to capital in the form of grants from the EDA, NSF, NIH, U.S. Department of Commerce, SBIR grants, and many more.
- Access to capital from angel and venture investors.
- Mentoring from a network of professionals such as patent attorneys, CPAs, experienced entrepreneurs, engineers, as well as sales and marketing professionals.
- Laboratory, production, and manufacturing space with advanced technology and equipment.
- Incubation and acceleration coaching and oversight.

Community Benefits and Considerations:

This project will enable the region to create an environment that provides facilities for incubator graduates and Tier 2 companies to expand and grow their businesses. It also provides other agencies an alternate secondary emergency operations center for first responders to efficiently deliver vital services to communities and tribal nations during natural disasters. The facility helps build economic resiliency through long term economic stability in the community. It will benefit the following groups:

- High technology and bioscience startups will result from technology transfer and commercialization of research conducted by NAU faculty and students.
- Local entrepreneurs will become more competitive in the global market through the technical and business advice from NAU Venture Acceleration Program, NACET staff and their statewide mentors group.
- Existing firms and new firms will locate in Northern Arizona to take advantage of Innovation Mesa's facilities and to be near growing industry clusters; however, this facility is unlikely to compete with existing commercial facilities due to small lease areas, non-traditional finance terms, and access to lab space not available in the current commercial real estate market.
- Native American culturally specific businesses will be encouraged to expand their service areas through guidance from and access to NAU and NACET staff, business leaders, and programs.

Community Involvement:

Inform and Collaborate

Expanded Options and Alternatives:

- Approve the IGA between the City and NAU to allow the funding for the project.
- Reject the IGA between the City and NAU which would not allow the project to proceed, or the City would have to provide the remaining funds.

Attachments: [IGA with NAU for Innovation Mesa](#)
 [Exhibit A-Proposal to ACA from NAU](#)
 [Exhibit B-ACA between NAU Grant Agreement](#)

INNOVATION MESA BUSINESS ACCELERATOR PROJECT

INTERGOVERNMENTAL AGREEMENT

between
Arizona Board of Regents for and on behalf of Northern Arizona University
and
City of Flagstaff

This agreement (“Agreement”) is entered into this 1st day of April, 2014, between the Arizona Board of Regents for and on behalf of Northern Arizona University (“University”), and the City of Flagstaff (“City”). The University and the City may be referred to in this Agreement collectively as the “parties” and singularly as a “party.”

WHEREAS, the City is designing, constructing and operating a business accelerator called the Innovation Mesa Business Accelerator (the “Project”) for the purpose of retaining, expanding and diversifying the economic base of the City and the surrounding area; and

WHEREAS, the Project will include an approximately twenty-five thousand (25,000) square foot “Tier Two” business accelerator facility (“Project Facility”) featuring wet and dry labs, office space, light manufacturing space, a conference room, and server facilities, to be constructed on the McMillan Mesa in the City of Flagstaff, at a total project cost of Seven Million Seven Hundred Sixty-Two Thousand Five Hundred Dollars (\$7,762,500), which is intended to assist Tier Two companies (companies that have sustainable revenues, with infrastructure needs, are adding employees, and are less than 10 years old) by making available, among other benefits: (a) various advanced venture acceleration services to regional tier-two companies including (i) access to the technical expertise, mentoring, and consulting of the University’s business and engineering faculty, economic development practitioners, research faculty, MBA and engineering graduate students, and interns; (ii) intellectual property and technology transfer capabilities; (iii) connections to local, state, and national business incubation resources; (iv) assistance and access to capital in the form of grants from agencies including the EDA (as defined below), the National Science Foundation, the National Institutes of Health, the U.S. Department of Commerce, and the Small Business Innovation Research Program; (v) access to capital from angel and venture investors; (vi) mentoring from a network of professionals including patent attorneys, certified public accountants, experienced entrepreneurs, engineers, and sales and marketing professionals; and (vii) incubation coaching and oversight; and (b) cutting-edge laboratory, production, and manufacturing infrastructure and advanced technology and equipment. With the exception of (a) (i) of this section, all benefits will be the responsibility of the City; and

WHEREAS, the Project will provide space for Tier Two companies and graduates of the Northern Arizona Center for Entrepreneurship and Technology (“NACET”), assisting business startups, and retaining and expanding existing businesses; and

WHEREAS, the City obtained funding from the United States Department of Commerce Economic Development Administration (“EDA”) and the City Council approved that grant on

November 6, 2012 to partially fund the Project; and

WHEREAS, the University has long been a driver of economic activity in rural Northern Arizona. Its constituent organizations, including the W.A. Franke College of Business, the NAU Center for Business Outreach, the NAU Office of Economic Development, the NAU Center for American Indian Economic Development, the NAU EDA University Center, and the NAU Rural Policy Institute, are innovators in entrepreneurial education and training, business outreach, business service and engagement, direct job creation, technology transfer, and business retention and expansion; and

WHEREAS, the University has been engaged in business and venture incubation and venture acceleration in rural northern Arizona, directly, and through an agreement with NACET and the City; and

WHEREAS, business incubation and venture acceleration are regarded as critical components for economic growth in rural northern Arizona in view of the region's expanding knowledge-based economy in the biosciences, technology, science-based companies, software, advanced manufacturing, astronomical sciences, education and medical services; and

WHEREAS, the University made a proposal to the Arizona Commerce Authority ("ACA") to assist in the development and operation of an expanded advanced venture acceleration program to accelerate the growth and sustainability of Tier Two start-up companies in rural northern Arizona (see Exhibit A, "Venture Acceleration Proposal," attached hereto and incorporated by this reference); and

WHEREAS, the University received a grant from the ACA to strengthen Arizona's economy and facilitate the creation of Qualified Jobs as defined in the ACA Agreement (see Exhibit B, the "ACA Agreement," attached hereto and incorporated by this reference) for its citizens by supporting and attracting businesses in targeted, high-value base sectors throughout the state under the ACA Agreement; and

WHEREAS, the University wishes to provide the funds it will receive from the ACA to support the Project, as well as additional University funding, in order to help create jobs for University graduates and to assist the University in fulfilling its teaching, research, and service missions; and

WHEREAS, the Project is anticipated to create and maintain three hundred (300) or more new Qualified Jobs over the next five (5) years;

NOW THEREFORE, the parties agree as follows:

1. University's Obligation

The University will provide to the City, from funds provided by ACA, up to one million dollars (\$1,000,000) for the purpose of funding the design and construction of the Project Facility. Provided the terms of this Agreement are complied with, the University will

reimburse the City one hundred percent (100%) of the funds that it receives from the ACA within thirty (30) days of receipt of the funds from the ACA by the University. In addition, provided the terms of this Agreement are complied with, the University will pay one hundred thousand dollars (\$100,000) for the purpose of funding the design and construction Project Facility within thirty (30) days of the signing of this Agreement.

2. City's Obligation

The City will use the funds received from the University only for the purpose of funding the design and construction of the Project Facility. All requests for reimbursement from the City to the University shall include copies of applicable vendors' invoices detailing the services provided in respect to the Project Facility, including invoices from the City if the City is performing vendor services, as well as the related proof of payment by the City, and must be acknowledged and approved by the City as representing an accurate accounting of design or construction expenses incurred in respect to the Project Facility. With the exception of the one hundred thousand dollars (\$100,000) referenced in Section 1 above, it is expressly provided that the University need not first pay the City the amount reflected in the request for reimbursement unless the University has received such amount from ACA.

The City will comply with and perform all obligations that are imposed upon the University in the ACA Agreement to the same extent that the obligations apply to the University. These obligations include, but are not limited to: designing and constructing the Project Facility; providing advanced venture acceleration and related services; preparing progress reports; access for site visits; preparing and transmitting written requests for payments; repayment for failure to meet obligations of the ACA Agreement; preparing closing affidavits and payment affidavits in substantially the form set forth in Exhibits C and D, respectively, attached hereto and incorporated herein; and providing copies of construction contracts.

The City will provide the University with copies of progress reports provided to the EDA, at the same time such reports are provided to the EDA, so that the University can provide such reports to the ACA.

The City agrees to maintain a formal business incubation and venture acceleration program run by NACET or by an entity of similar capacity (having similar credentials and capability) to NACET for at least the longer of: 1) the term of the ACA Agreement; or 2) through the Maturity Date (as defined in the ACA Agreement) or such other time as may be mutually agreed upon by the Parties.

To the extent the ACA requires repayment from the University, the City agrees to repay all monies received from the University in the event it fails to expend all monies received from the University to the design and construction of the Project Facility or fails to provide advanced venture acceleration and related services to the Project throughout the Term of this Agreement.

3. Term

The term of this Agreement shall begin on the date indicated in the first paragraph above and

shall continue until the longer of: 1) the termination of the ACA Agreement; or 2) the Maturity Date (as defined in the ACA Agreement) or such other time as may be mutually agreed upon by the Parties.

4. Representations and Warranties of the City and the University

The Parties hereby represent and warrant to each other that as of the date of execution of this Agreement and as of the time immediately preceding any payment by the University as follows:

All information supplied or delivered by the Parties to each other, whether verbally or in writing, in connection with the transactions contemplated by this Agreement is materially true, correct, and complete as of the dates specified therein.

There are no actions, suits, or proceedings pending or, to each Party's knowledge after due inquiry, threatened in any court or before or by any governmental authority which materially and adversely (i) affect that Party's ability to perform its obligations under the Agreement, (ii) affect the ability to construct and develop the Project, or (iii) which involve the validity, enforceability, or priority of any provision of this Agreement.

This Agreement constitutes a valid and binding obligation of each Party to the other, enforceable in accordance with its terms.

Each Party has the organizational power and authority to enter into this Agreement and to carry out the transactions contemplated to be carried out hereunder. The individuals signing this Agreement on behalf of each Party have full organizational power and authority to do so. All necessary consents, approvals, resolutions and other action required to duly authorize, execute and deliver the Agreement and to perform hereunder, to the extent required by each Party for such authorization, execution, delivery and performance hereunder, have been obtained or taken by that Party.

5. Insurance

The City shall maintain adequate insurance (which may include a bona fide self-insurance program) to cover any liability arising from the acts and omissions of City employees, contractors, or agents.

6. Indemnification

The City (as "Indemnitor") agrees to indemnify, defend, and hold harmless the University, the State of Arizona, the ACA and their officers, agents and employees (as "Indemnitee"), from and against any and all claims, losses, liability, costs, or expenses, including reasonable legal fees and expenses, arising from the City's performance under this Agreement to the fullest extent allowed by law. This includes, but is not limited to, any liability the Indemnitee may incur that is in any way associated with the ACA Agreement. Upon receiving knowledge of any suit, claim, or demand asserted by a third party that the University believes is covered by this indemnity, the University shall give the City prompt notice of the matter and an opportunity to defend the Indemnitee, at the City's sole cost and expense. The

University shall be responsible for complete and active cooperation with the City in defense of such claims, suits, or demands, without compensation from the City. The University shall not settle any such claims, suits, or demands without prior written consent of the City. The City shall pay any and all valid claims, suits, or demands of any brokers or agents with whom it has dealt who claim a right to any fees in connection with arranging any financing created pursuant to this Agreement or otherwise arising in connection with the Project, and shall hold the University harmless from such claims, suits, or demands, whether or not they are valid. This obligation shall survive the termination of this Agreement.

7. Cancellation for Lack of Funding

If the University's performance under this Agreement depends upon the appropriation of funds by the Arizona legislature, and if the Legislature fails to appropriate the funds necessary for performance, then the University may provide written notice of this to the City and cancel this Agreement without further obligation of the University. Appropriation is a legislative act and is beyond the control of the University.

8. Authority

The Parties represent and warrant that they are authorized and have the authority to legally undertake the obligations created under this Agreement, including but not limited to those in Section 6, Indemnification.

9. Miscellaneous

9.1 Amendments; Modifications. No provision of this Agreement may be amended or modified, except by written instrument executed by both Parties.

9.2 Limited Severability. The Parties believe that the execution, delivery, and performance of this Agreement are in compliance with all applicable laws. However, in the unlikely event that any provision of this Agreement is declared void or unenforceable (or is construed as requiring either Party to do any act in violation of any applicable laws, constitutional provision, law, regulation, code or charter), such provision shall be deemed severed from this Agreement, and this Agreement shall otherwise remain in full force and effect; provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement (and any related agreements effective as of the same date) provide essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required. Unless prohibited by applicable laws, the Parties further shall perform all acts and execute all amendments, instruments, and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.

9.3 No Waiver; the Parties' Standard for Consents. No waiver by either Party of any of that Party's rights or remedies hereunder, shall be considered a waiver of any other or subsequent right or remedy of either Party; no delay or omission in the exercise or enforcement by either Party of any rights or remedies shall be construed as a waiver of any

other right or remedy of either Party; and, to the extent permitted by applicable law, no exercise of enforcement of any such rights or remedies shall be held to exhaust any right or remedy of either Party. Unless otherwise provided in this Agreement, all consents of either Party permitted or required under this Agreement shall be given or withheld in that Party's sole discretion.

- 9.4 Confidentiality. The Parties acknowledge the University and the City are public entities subject to the provisions of the Arizona Public Records Laws, A.R.S. § 39-121 et seq. In the event that a public records request is received by the University or the City requesting records described as confidential, which the University or the City determines must be disclosed, the University or the City shall notify the other party prior to disclosure. The obligations under this subsection shall survive the termination of this Agreement.
- 9.5 No Third Party Beneficiary. This Agreement is for the sole benefit of the University and City and, except insofar as it relates to the Indemnitees, is not for the benefit of any third party.
- 9.6 Number and Gender. Whenever used herein, the singular number shall include the plural and the singular and the use of any gender shall be applicable to all genders.
- 9.7 Captions. The captions, headings, and arrangements used in this Agreement are for convenience only and do not in any way affect, limit, amplify, or modify the terms and provisions hereof.
- 9.8 Governing Law; Venue. This Agreement shall be deemed to be made under, shall be construed in accordance with, and shall be governed by the internal, substantive laws of the State of Arizona (without reference to conflict of law principles). Any action brought to interpret, enforce or construe any provision of this Agreement shall be commenced and maintained solely and exclusively in the Superior Court of the State of Arizona in and for the County of Coconino (or, as may be appropriate, in the Justice Courts of Coconino County, Arizona, or in the United States District Court for the District of Arizona). The Parties may, by mutual agreement, transfer or remove any action commenced under or in connection with this Agreement.
- 9.9 Time of the Essence. Time is of the essence with respect to each and every term and condition of this Agreement to be performed by the City hereunder.
- 9.10 Attorneys' Fees. In the event of a breach by any Party of any provision of this Agreement and commencement of a subsequent legal action in an appropriate forum, or in the event of an action seeking a declaration of the rights or liabilities of the Parties, the prevailing Party in any such dispute shall be entitled to reimbursement of its reasonable attorney's fees and court costs, including, but not limited to, its costs of expert witnesses, transportation, lodging and meal costs of the parties and witnesses, costs of transcript preparation, and other reasonable and necessary direct and incidental costs of such dispute.

- 9.11 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall be deemed one and the same document.
- 9.12 Recitals. The Recitals are incorporated herein by this reference and made an integral part hereof.
- 9.13 Conflict of Interest. The requirements of A.R.S. § 38-511 apply to this Agreement.
- 9.14 Compliance with the Law. The City shall promptly execute and comply with A.R.S. § 41-4401, immigration laws and E-Verify requirement. The City warrants compliance with all federal immigration laws and regulations relating to its employees and warrants compliance with A.R.S. § 23-214. A breach of the City's warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of this Agreement and the University, in such event, may terminate this Agreement; provided, however, that the University shall not deem the City to be in material breach of the Agreement if it has complied with the employment verification provisions prescribed by sections 274a and 274b of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. § 23-214, subsection A. The University retains the legal right to inspect the papers of any employee who works on this Agreement to ensure the City is in compliance with the City's warranty under this paragraph.
- 9.15 No Assignment. The Parties acknowledge that this Agreement is personal to the City and is based solely and exclusively upon factors relevant to the City's unique qualifications and experience, and that the City may not assign or transfer (which shall include but not be limited to encumbering or hypothecating), in whole or in part, this Agreement, or its rights or obligations arising under this Agreement (including its right to receive any funds or other monies payable hereunder), in whole or in part, to any other person or entity, or for any purpose not specified herein, without the prior written consent of the University, which may be granted, withheld, delayed or conditioned in the University's sole, absolute and unfettered discretion. Any assignment, or attempted or purported assignment, in violation of this Section shall be void, and not voidable, and shall vest no rights in the purported assignee or transferee.
- 9.16 Successors Bound. This Agreement shall inure to the benefit of, and shall be binding upon, each of the Parties and their successors and assigns hereunder.
- 9.17 Force Majeure. Each Party shall be excused from performance in its obligations hereunder to the extent such failure to perform is caused by an event of "Force Majeure." "Force Majeure" means the actual period of any delay caused by any legal challenges or defenses to the actions taken or to be taken in connection with this Agreement, condemnation, strike or labor disputes, unavailability of materials, extraordinarily severe weather conditions, riot or civil disorder, other acts of God or other cause beyond such party's reasonable control. The party claiming Force Majeure shall give prompt written notice to the other party of the occurrence of such Force Majeure and shall use reasonable efforts to remove or minimize its effects forthwith.

9.18 Entire Agreement. This Agreement contains the entire agreement of the Parties with respect to the subject matter hereof.

10. Authority

The Parties represent and warrant that they are authorized and have the authority to legally undertake the obligations created under this Agreement, including but not limited to those in Section 6, Indemnification.

11. Notices

Except as otherwise expressly provided herein, all notices, demands, requests, and other communications required or permitted hereunder, shall be in writing and shall be delivered by hand, telegram, facsimile or deposited with the United States Postal Service postage prepaid, registered or certified mail, return receipt requested, or delivered by courier or personal delivery addressed as follows:

If to the City:

Attn: City Manager
City of Flagstaff
211 W. Aspen St.
Flagstaff, Arizona 86001
Telephone No.: (928) 213-2000

With a required copy to:

Attn: Grants Manager
City of Flagstaff
211 W. Aspen St.
Flagstaff, Arizona 86001
Telephone No.: (928) 213-2227

If to University:

Attn: Jennus Burton
Vice President, Finance and Administration
Northern Arizona University
PO Box 4088
Flagstaff, Arizona 86011-4088
Telephone No.: 928-523-2708
Facsimile No.: 928-523-4230

with a required copy to:

Rich Bowen
Associate Vice President, Economic Development
Northern Arizona University
PO Box 4074
Flagstaff, AZ 86011-4074
Telephone No.: 928-523-8831
Facsimile No.: 928 -523-8223

12. Order of Precedence

To the extent there is a conflict between this Agreement and the attachments to this Agreement, the ACA Agreement will control, followed by the Venture Acceleration Proposal, and then this Agreement.

13. Definitions

To the extent applicable and except as otherwise set forth in this Agreement, the definitions in the ACA Agreement shall apply to this Agreement.

The undersigned have read the foregoing Agreement and, as duly authorized signatories of their respective entities, hereby agree to be bound by its requirements, terms and conditions.

**The Arizona Board of Regents for and on
Behalf of Northern Arizona University**

City of Flagstaff

By: _____
President John Haeger

By: _____
Mayor Gerald W. Nabours

Approved as to form:

Attest:

Attorney for the Board of Regents

City Clerk

Approved as to form:

City Attorney

Exhibit C

CLOSING AFFIDAVIT

The undersigned hereby certifies that he/she is the _____ of the City of Flagstaff (“City”), and is authorized to deliver this affidavit for and on behalf of the City; and further declares, solely in such capacity for the City and not individually, that:

1. The undersigned has examined the agreement dated April 1, 2014, by and between the City and the Arizona Board of Regents, for and on behalf of Northern Arizona University (“Agreement”).

2. To the knowledge of the undersigned, the representations and warranties of the City set forth in Article 4 of the Agreement are true and correct in all material respects.

Executed this ____ day of _____, 2014.

By: _____

Name: _____

Its: _____

STATE OF ARIZONA)
) ss.
County of Coconino)

On _____, 2014, before me, the undersigned Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

My Commission Expires:

Exhibit D

PAYMENT AFFIDAVIT

The undersigned hereby certifies that he/she is the _____ of the City of Flagstaff (“City”), and is authorized to deliver this affidavit for and on behalf of the City; and further declares, solely in such capacity for the City and not individually, as set forth below. (All capitalized terms mean as defined in the Agreement between the City and the Arizona Board of Regents, for and on behalf of Northern Arizona University (“the University”) dated April 1, 2014 (the “Agreement”).)

1. To the knowledge of the undersigned, the representations and warranties of the City set forth in Article 4 of the Agreement remain true and correct in all material respects.

2. No Event of Default exists, and no event of non-performance exists, which, with the passage of time, could constitute an Event of Default. Among other matters, the City has submitted all Progress Reports due as of the date hereof.

3. No Material Adverse Change has occurred either in respect to the City or in respect to the Project since the date of the Agreement.

4. The City has furnished the University with copies of all construction contracts for the Project Facility and all amendments thereto.

5. Attached is all documentation referenced by Section 3.1 of the ACA Agreement which corroborates the amount of the payment requested from the University.

Executed this ____ day of _____, 20__.

By: _____

Name: _____

Its: _____

STATE OF ARIZONA)
) ss.
County of Coconino)

On _____, 20__, before me, the undersigned Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

My Commission Expires:



Funding Proposal to Arizona Commerce Authority
Grant for Advanced Venture Acceleration for Tier Two Companies
Creating Jobs, Wealth, and Prosperity

Request

In keeping with the mission of the Arizona Commerce Authority 'To grow and strengthen Arizona's economy and facilitate the creation of quality jobs for its citizens by supporting and attracting businesses in targeted, high-value base sectors throughout the state' Northern Arizona University (NAU) requests of the Arizona Commerce Authority a \$1.0 million job creation grant to support and accelerate the growth of high value jobs through an expanded venture acceleration program. This program will be housed in a planned approximately 25,000 s.f. tier two business accelerator facility at Innovation Mesa developed in collaboration and partnership with the Northern Arizona Center for Entrepreneurship and Technology (NACET) and City of Flagstaff (COF). This grant will be leveraged with funding provided by the EDA, City of Flagstaff, and Northern Arizona University. The purpose of the Tier Two facility is to provide the cutting edge laboratory, manufacturing, workshop space, and venture acceleration services required to continue the robust job creation and expansion of the companies that have been incubated by Northern Arizona University and NACET. Also this project will build upon the successful business incubation programs and services provided by Northern Arizona University and the existing partnership that Northern Arizona University holds with NACET and the COF.

Northern Arizona University – Economic Driver for Arizona

In addition to creating the sophisticated and highly trained work force of the future Northern Arizona University boasts a number of organizations driving economic activity and making a substantial and important economic impact in Arizona. Included is the nationally known W.A. Franke College of Business, the NAU Center for Business Outreach, the NAU Office of Economic Development, NAU Center for American Indian Economic Development, Arizona Hospitality Research & Resource Center, NAU Center for American Indian Economic Development, NAU EDA University Center, and the NAU Rural Policy Institute. <http://franke.nau.edu/business-outreach/>

These NAU organizations are innovators and drivers of excellence in business incubation and acceleration, entrepreneurial education and training, business outreach, business service and engagement, direct job creation, technology transfer, and business retention and expansion. In addition, the growing world class research at NAU is providing direct economic impact with job creation, intellectual property, technology transfer, business incubation, and development of sophisticated high level workforce demanded by industry.

Northern Arizona University is also engaged in direct economic development as a partner and manager of the regional economic development organization the 'Economic Collaborative of Northern Arizona (ECoNA). www.econa-az.com

Business incubation and advanced venture acceleration are critical components for Northern Arizona's economy to grow and prosper. Northern Arizona has developed a robust and growing knowledge based economy in the biosciences, technology, science based companies, software, advanced manufacturing, astronomical sciences, education, and medical services. Fostering growth and expansion in the knowledge based companies will allow the region's economy to compete nationally and globally.

Northern Arizona University (NAU) has been engaged in business and venture incubation in Northern Arizona through a partnership with the Northern Arizona Center for Entrepreneurship and Technology (NACET) and the City of Flagstaff. The partnership has created significant success in the past five years. A study conducted by the NAU Franke College of Business showed that client companies at NACET created 165 new jobs in 2009 and 2010 with an average wage of \$75,000. Furthermore, through November of 2011, NACET clients have raised over \$68 million in funding and clients spent \$17 million which had a regional economic impact of \$29 million just for 2011.

NAU has created new programs and offerings to encourage, educate, and fund students to become entrepreneurs and start businesses while at the University. These programs include our student business incubator 'LaunchBox', Extreme Entrepreneur Tour, and NAU Start-up Weekend.

NAU research scientists along with partners at TGEN North have created intellectual property and discoveries that have been turned into new companies such as Pathogene and Protein Genomics. NAU faculty and students have created new companies that are currently in business incubation and will soon be ready for the venture acceleration as they become tier two companies. In addition the work of NAU in economic development and the NAU collaboration with the regional economic development organization Economic Collaborative of Northern Arizona (ECoNA) is bringing new start-up technology and bioscience companies to the region that will want and need access to venture acceleration facilities and programs.

Accelerating New Ventures

A problem for business start-ups, entrepreneurs, and existing companies in Northern Arizona region and for most of Arizona for that matter is a lack of venture acceleration programs, facilities and programs. Recently Northern Arizona experienced the loss of a growing tier two digital pathology company, a tier two renewable energy company, and a growing tier two superconductivity company to other states and regions because they could not find appropriate two-tier space or venture acceleration services in Northern Arizona. Without the venture

acceleration programs and facilities the region and State's ability to grow and create jobs is slowed and in some cases stymied. Recognizing that venture acceleration is a critical step to expanding the current success in job creation Northern Arizona University is proposing to expand its current venture acceleration work. Rather than build a separate facility NAU is proposing a partnership with NACET and the COF to operate a venture acceleration program in the new facility named the Innovation Mesa project. NAU will house its expanded venture acceleration and ongoing business incubation work in the facility. This venture acceleration facility will be an important step forward for Northern Arizona and Northern Arizona University in accelerating job creation. NAU venture acceleration program accelerates the growth and sustainability of the tier two start-ups through:

1. Access to the technical expertise, mentoring, and consulting of NAU business and engineering faculty, NAU economic development practitioners, research faculty, MBA and engineering graduate students, interns, engineering, marketing, finance, and laboratory equipment.
2. Intellectual property and technology transfer developed by NAU and cooperating universities such as ASU, UA, MIT, Stanford, and many more.
3. Connections to local, state, and national business incubation resources.
4. Assistance and access to capital in the form of grants from the EDA, NSF, NIH, Department of Commerce, SBIR grants, and many more.
5. Access to capital from angel and venture investors.
6. Mentoring from a network of professionals such as patent attorneys, CPA's, experienced entrepreneurs, engineers, as well as sales and marketing professionals.
7. Laboratory, production, and manufacturing space with advanced technology and equipment.
8. Incubation coaching and oversight.

Innovation at Work

The Innovation Mesa project will provide "soft landing" space for tier two companies developed by NAU faculty and students, Tier 2 companies and graduates exiting NACET's incubation program, and allow new start-up companies wishing to enter to business incubation to have space in the NACET. This project is intended to create over 300 jobs and \$20 million in private investment within the first three years of operation. The addition of wet and dry laboratories in Innovation Mesa is critical to expand and grow existing companies in the region. Currently no private laboratory space is available or anticipated to be built. This project will allow Northern Arizona to retain local businesses that may have otherwise left the region to seek these types of venture acceleration programs, services and facilities. Specifically, this project and the NAU advanced venture acceleration program will benefit these groups:

1. High technology and bioscience startups will result from technology transfer and commercialization of research conducted by NAU faculty and students.

2. Local entrepreneurs will become more competitive in the global market through the technical and business advice from NAU Venture Acceleration Program, NACET staff and their statewide mentors group.
3. Existing firms and new firms will locate in Northern Arizona to take advantage of the Innovation Mesa's facilities and to be near growing industry clusters. However, this facility is unlikely to compete with existing commercial facilities due to small lease areas, non-traditional finance terms, and access to lab space not available in the current commercial real estate market.
4. Native American culturally specific businesses will be encouraged to expand their service areas through guidance from and access to NAU and NACET staff, business leaders, and programs.

Community Involvement

Innovation Mesa project is a shared vision with state, local, and private entities. This collaborative partnership involves the City of Flagstaff, Northern Arizona University, Economic Collaborative of Northern Arizona, Northern Arizona Council of Governments, and the Northern Arizona Center for Entrepreneurship and Technology. This collaborative partnership has already shown a proven ability to work together to advance the economic needs of the region.

NAU and NACET Partnership

In addition to the community collaboration Northern Arizona University and NACET have a long standing partnership in business incubation, technology transfer, entrepreneur education, and mentorship. In October 2011 Arizona Gov. Jan Brewer made a \$1 million state investment in a NAU and NACET northern Arizona business incubator partnership furthered and supported research-intensive ventures and small business opportunities in the region, ultimately leading to more local high-wage jobs. The Northern Arizona University/Northern Arizona Center for Emerging Technologies partnership was established four years ago to support the creation of successful science- and technology-based companies in northern Arizona. The Governors funding was used to advance the center's existing projects, increase the number of new projects, cultivate spin-off opportunities, provide research opportunities to undergraduates and mentor graduate researchers in start-up business efforts in a true "grow your own" talent initiative.

This advanced venture acceleration program will expand the partnership. NACET and NAU will leverage and expand the resources for venture acceleration. NAU will hold a seat on the Executive Board of NACET. Northern Arizona University and NACET already have a significant statewide business incubation and economic impact with the potential to significantly increase the impact with advanced venture acceleration. NAU and NACET will co-market and co-brand the venture acceleration program in Arizona. NACET currently manages the incubator at Embry Riddle University in Prescott, Center for Entrepreneurial Innovation at Gateway Community

College in Downtown Phoenix, Town of Maricopa Business Incubator, and business assistance centers in Prescott and Cottonwood, and a Native American business incubator serving Tribes located in Coconino, Navajo, Apache, and Yavapai counties. NACET is also negotiating to develop incubators in greater Phoenix and other rural communities. Northern Arizona University has campuses in 30 locations in both rural and urban Arizona.

Metrics/Outcomes

The outcome from this investment by ACA will be the formation of new companies, growth of existing start-up companies, new private investment, and new jobs. The partnership that Northern Arizona University holds with NACET and the City of Flagstaff has already created new jobs, start-up companies, and private investment to-date. The venture acceleration program at Innovation Mesa will build upon this success by accelerating the growth of the existing start-up companies and developing new companies.

The City of Flagstaff provided the EDA with the following metrics and outcome as part of their grant proposal. Based on historical track record, projected outcomes (see Appendix Two), existing companies in the incubation pipeline, and long term commitments to the EDA will leverage the \$1.0 million with the \$6.8 investment by EDA, City of Flagstaff, and NAU to incubate and accelerate over a 10 year period approximately:

1. 10 -20 companies
2. 300 -600 new jobs
3. A minimum of \$20 million - \$40 million new private investment.
4. The longer term projection calls for additional companies, jobs, and private investment.

Innovation Mesa Project

- Located on City-owned Land on McMillan Mesa, adjacent to USGS and NACET (Phase One)
 - Approximately 25,000 square foot building
 - Wet/Dry labs and office space (80%)
 - Light manufacturing (20%)
 - Conference room/EOC
 - Server facilities
- Purpose
 - Tier 2 companies /graduates of NACET/ NAU Faculty and Students
 - Advanced Venture Acceleration Program
 - Entrepreneurs/Economic Gardening
 - Growing new businesses/Retention and Expansion
 - Job creation – 300 new jobs
 - Alternate/secondary EOC

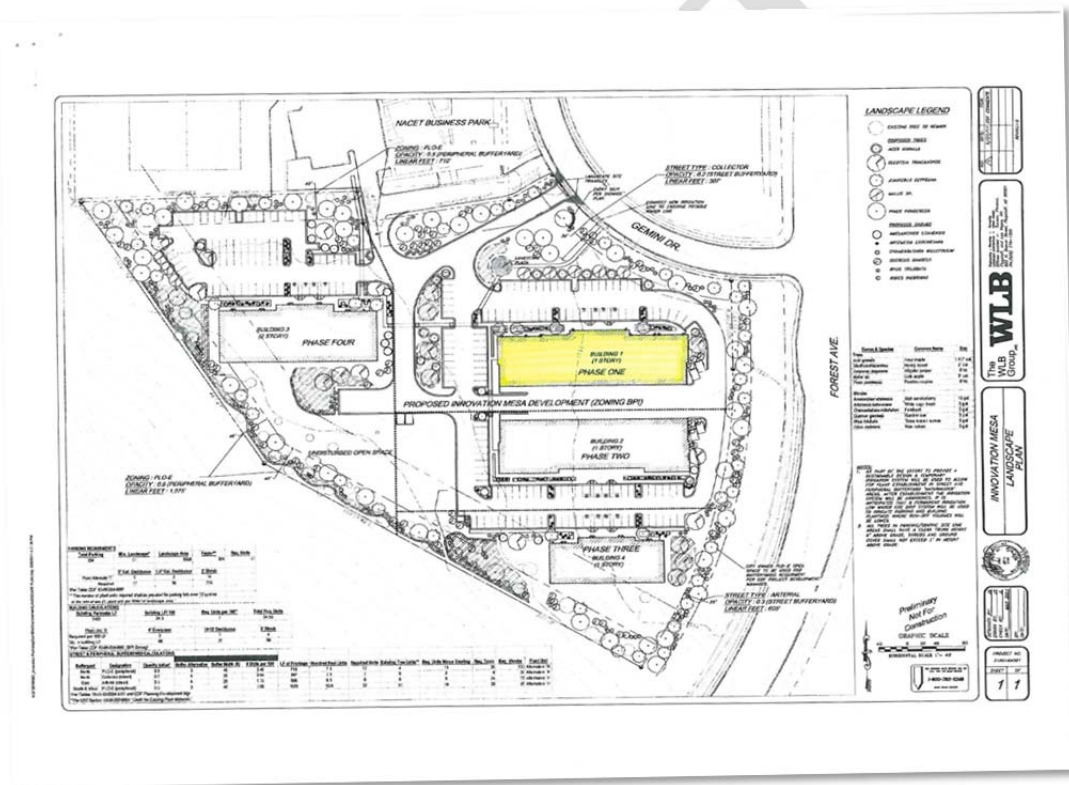
○ Design and Construction Funding Summary

\$4,000,000 – Federal - EDA

\$2,662,500 – City - Bond Capacity

\$1,100,000 – Northern Arizona University

\$7,762,500 – Total Project Cost



Appendix One – NAU Economic Development Mission

Northern Arizona University has established a track record of success in economic development and has developed and continues to develop innovative tools, methods, and programs that utilize its expertise, intellectual capital, influence, and presence to expand the economic base of Arizona and create global economic competitiveness:

1. Develop, teach, and host economic development training in the region and state. Also participate and collaborate with other higher education entities, statewide partners, and organizations such as the Arizona Association for Economic Development (AAED) and the International Economic Development Council (IDEC) to provide economic development learning opportunities.
2. Work with rural Arizona communities to assist in developing and employing economic development strategic planning.
3. Engagement and service on the various local, regional and statewide economic development organizations including the local chamber of commerce and state chamber of commerce. Serve on the boards and committees of the various organizations.
4. Serve as a liaison between the university community and private and public organizations for the purpose of fostering collaborative economic development, research, tech transfer, commercialization, internships, and public service.
5. Foster and develop relationships with businesses and the business community. Increase the business community awareness of the importance of the universities to the economic development of the state. Work to strengthen and grow existing Arizona businesses.
6. Increase innovation, entrepreneurship, and investment. Assist with the development of an angel and venture investment network. Vice President of Research drives success in tech transfer and commercialization activities. Support and promote jointly-funded technology incubators and encourage the creation of additional hands-on educational programs for K-12 and higher education students. Increase job creation and capital investment in the State by working with the ACA and the Governor to create incentive programs that are competitive, sustainable, and used selectively.
7. In collaboration with internal university parties and external constituents seek grants and research funds to assist in economic development of the region and state.
8. Expand business incubation activities in rural Arizona communities.
9. Collaborate with other public and private organizations to improve the workforce. Assist in prioritizing education to develop the workforce of the future. Connect higher education, industry and government to identify industry workforce needs and ensure plans are in place that will deliver a trained and ready workforce for the future by

Appendix One Continued

continuing the partnership between workforce development, economic development and higher education to conduct Cluster Acceleration Partnership (UCAP) projects.

- 10.** Partner to increase the velocity of capital flow by further supporting and developing an environment that encourages private capital investment in the State from local, national and international sources.
- 11.** Support and strengthen entrepreneurship and company growth through programs and partners such as business resource centers, NACET, NAU entrepreneur programs, international export training, and rural outreach and mentoring.
- 12.** Expand Northern Arizona's capacity for technology-based economic development by working with the region to develop an interdisciplinary bio-focused research development and commercialization center and technology park.
- 13.** Continue to foster high-powered research and commercialization collaborations. Assist in expanding the number of world-class innovators recruited to the Northern Arizona Center for Entrepreneurship and Technology, NAU, TGEN North, Pathogene, etc.
- 14.** Assist start-up business growth and foster more interaction between local companies, entrepreneurs, and regional higher education institutions by providing business services and project management through NAU Center for Business Outreach, Science Foundation Arizona, Flinn Foundation, Arizona Commerce Authority, Local SBDC, etc.
- 15.** Partner to train Northern Arizona's future entrepreneurs and innovators by connecting private industry with institutions of public and higher education through programs such as the NACET student entrepreneur program and SEDI Seeds.
- 16.** Collaborate to attract capital to the State and help introduce start-up companies to potential investors through NACET angel investor training, ACA venture fund, the developing Arizona Fund of Funds, and other venture capital programs.

**Appendix Two – NACET Job Projection
Affiliate to Acceleration Clients**

Section A NACET Affiliate Clients																	
Total On-Site Employees																	
Industry Type	Company	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Clean Energy	A						12	15									
Software	B						2	3									
Software	C						3	5									
Software	D						1	2									
Software	E						2	3									
Life Science	F						3	6									
Life Science	G						1	2									
Clean Energy	H						4	6									
Clean Energy	I						10	14									
Software	J						2	3									
Hardware	K						1	1									
Section B Venture Accelerator Clients																	
Total On-site Employees																	
Industry Type	Company	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Clean Energy	A								18	25	30	35	38	40	42	44	46
Software	B								5	7	9	10	11	12	13	14	15
Software	C								8	15	20	25	30	32	34	36	38
Software	D								3	5	8	10	12	14	16	18	20
Software	E								4	8	12	16	20	22	24	26	28
Life Science	F								12	20	30	40	45	50	55	60	65
Life Science	G								4	8	12	16	20	22	24	26	28
Clean Energy	H								8	12	16	18	20	22	24	24	24
Clean Energy	I								20	30	35	40	45	50	55	60	65
Software	J								4	6	8	10	12	14	16	18	20
Hardware	K								2	8	16	24	28	32	34	36	38
Section C Average Salary																	
Average Salary																	
Company	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	
Clean Energy	A						\$35,000	\$38,000	\$40,000	\$42,000	\$43,000	\$43,000	\$44,000	\$44,000	\$45,000	\$45,000	\$46,000
Software	B						\$25,000	\$30,000	\$34,000	\$36,000	\$38,000	\$40,000	\$41,000	\$41,000	\$42,000	\$42,000	\$42,000
Software	C						\$35,000	\$40,000	\$45,000	\$48,000	\$50,000	\$52,000	\$52,000	\$54,000	\$54,000	\$56,000	\$56,000
Software	D						\$30,000	\$40,000	\$42,000	\$45,000	\$47,000	\$48,000	\$48,000	\$49,000	\$49,000	\$50,000	\$50,000
Software	E						\$15,000	\$25,000	\$30,000	\$32,000	\$33,000	\$33,000	\$34,000	\$34,000	\$35,000	\$35,000	\$35,000
Life Science	F						\$45,000	\$50,000	\$55,000	\$60,000	\$65,000	\$68,000	\$70,000	\$72,000	\$74,000	\$75,000	\$76,000
Life Science	G						\$0	\$40,000	\$5,000	\$55,000	\$60,000	\$65,000	\$68,000	\$70,000	\$72,000	\$74,000	\$75,000
Clean Energy	H						\$55,000	\$58,000	\$60,000	\$65,000	\$70,000	\$75,000	\$78,000	\$80,000	\$82,000	\$84,000	\$85,000
Clean Energy	I						\$65,000	\$65,000	\$68,000	\$68,000	\$70,000	\$70,000	\$72,000	\$72,000	\$74,000	\$74,000	\$75,000
Software	J						\$25,000	\$28,000	\$30,000	\$32,000	\$34,000	\$35,000	\$35,000	\$36,000	\$36,000	\$38,000	\$38,000
Hardware	K						\$0	\$20,000	\$25,000	\$25,000	\$26,000	\$26,000	\$28,000	\$28,000	\$28,000	\$29,000	\$29,000



**Appendix Two – NACET Job Projection
Incubator to Acceleration Clients**

Section A NACET Incubator Clients																	
		Total On-site Employees															
Industry Type	Company	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Software	A					2	2	3									
Life Science	B					4	4	6									
Life Science	C					6	8	8									
Clean Energy	D					2	3	3									
Materials	E					7	8	10									
Life Science	F					2	3	4									
Clean Energy	G					3	3	6									
Hardware	H					0	2	2									
Software	I					1	2	2									
	J																
Section B Venture Acceleration Clients																	
		Total On-site Employees															
Industry Type	Company	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Software	A								4	5	5	6	8	10	10	10	10
Life Science	B								6	8	10	12	12	14	14	16	16
Life Science	C								10	12	15	18	20	21	22	23	23
Clean Energy	D								5	6	8	10	12	14	15	16	18
Materials	E								20	25	30	35	38	40	42	42	44
Life Science	F								6	10	15	18	20	21	22	23	23
Clean Energy	G								10	15	20	24	28	30	32	34	36
Hardware	H								4	8	15	20	25	30	34	36	38
Software	I								8	15	20	25	30	35	40	45	50
	J																258
Section C Average Salary																	
		Average Salary															
Industry Type	Company	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Software	A					\$50,000	\$50,000	\$55,000	\$55,000	\$55,000	\$55,000	\$55,000	\$56,000	\$56,000	\$56,000	\$58,000	\$58,000
Life Science	B					\$67,964	\$70,000	\$70,000	\$75,000	\$75,000	\$75,000	\$76,000	\$76,000	\$78,000	\$78,000	\$80,000	\$80,000
Life Science	C					\$45,000	\$45,000	\$50,000	\$50,000	\$50,000	\$52,000	\$52,000	\$52,000	\$52,000	\$54,000	\$54,000	\$54,000
Clean Energy	D					\$15,000	\$140,000	\$150,000	\$160,000	\$160,000	\$160,000	\$165,000	\$165,000	\$170,000	\$170,000	\$175,000	\$175,000
Materials	E					\$60,000	\$65,000	\$65,000	\$65,000	\$70,000	\$70,000	\$70,000	\$70,000	\$70,000	\$72,000	\$72,000	\$72,000
Life Science	F					\$30,000	\$40,000	\$45,000	\$50,000	\$50,000	\$52,000	\$52,000	\$54,000	\$54,000	\$55,000	\$55,000	\$55,000
Clean Energy	G					\$46,000	\$50,000	\$60,000	\$60,000	\$65,000	\$35,000	\$68,000	\$68,000	\$70,000	\$70,000	\$70,000	\$70,000
Hardware	H					\$0	\$25,000	\$35,000	\$40,000	\$42,000	\$44,000	\$45,000	\$46,000	\$47,000	\$48,000	\$49,000	\$50,000
Software	I					\$0	\$20,000	\$35,000	\$40,000	\$45,000	\$48,000	\$50,000	\$52,000	\$52,000	\$53,000	\$53,000	\$54,000
	J																

AGREEMENT

Between

THE ARIZONA COMMERCE AUTHORITY,
an agency of the State of Arizona,

And

THE ARIZONA BOARD OF REGENTS FOR AND ON BEHALF
OF NORTHERN ARIZONA UNIVERSITY

AGREEMENT

THIS AGREEMENT (this "Agreement"), dated March 4, 2014, is made by and between (i) the ARIZONA COMMERCE AUTHORITY, an agency of the State of Arizona (the "Authority"); and (ii) the ARIZONA BOARD OF REGENTS, a body corporate with perpetual existence, for and on behalf of NORTHERN ARIZONA UNIVERSITY ("Grantee"). The Authority and Grantee are sometimes referred to individually as a "Party," and, collectively, as the "Parties."

RECITALS:

A. The Authority was established by the State of Arizona with a mission to provide private sector leadership in growing and diversifying the economy of the State, and creating high quality employment in the State through expansion, attraction and retention of businesses and marketing the State for the purpose of expansion, attraction and retention of businesses.

B. One aspect of the Authority's mission is to encourage *rural* business development in Arizona through a variety of development strategies, including specialized training, job creation, economic diversification and attraction of new investment.

C. The Authority has the power and authority, *inter alia*, to provide grants to qualifying parties that promote the mission of the Authority including grants supporting and advancing programs and projects for rural businesses, small businesses, and business development that enhance economic development.

D. Grantee has long been a driver of economic activity in rural northern Arizona. Its constituent organizations, including the W.A. Franke College of Business, the NAU Center for Business Outreach, the NAU Office of Economic Development, the NAU Center for American Indian Economic Development, the NAU EDA University Center and the NAU Rural Policy Institute, are innovators in entrepreneurial education and training, business outreach, business service and engagement, direct job creation, technology transfer and business retention and expansion.

E. Grantee has also been engaged in business and venture incubation and venture acceleration in rural northern Arizona, directly, and through an agreement with the Northern Arizona Center for Entrepreneurship and Technology ("NACET") and the City of Flagstaff (the "City"). Business incubation and venture acceleration are regarded as critical components for economic growth in rural northern Arizona in view of the region's expanding knowledge-based economy in the biosciences, technology, science-based companies, software, advanced manufacturing, astronomical sciences, education and medical services. Grantee's agreement with NACET has had significant success. A recent study concluded that NACET client companies created 165 new jobs in 2009 and 2010 paying an average wage of \$75,000.

F. Grantee has proposed, in collaboration with NACET and the City, the development and operation of an expanded advanced venture acceleration program to accelerate the growth and sustainability of "tier two" start-up companies (i.e., companies in existence for fewer than 10 years

with sustainable revenues and which are adding employees and have infrastructure needs) in rural northern Arizona (the "Project").

G. The Project, proposed to be developed and operated at an approximately 25,000 square foot "tier two" business accelerator building facility to be known as "Innovation Mesa" and to be constructed on the McMillan Mesa in the City at a cost of \$7,762,500 (the "Project Facility"), and intended to redress recent losses of several rural northern Arizona tier-two companies to other states because of insufficient tier-two advanced venture acceleration services and infrastructure, is intended to provide, as available: (a) various advanced venture acceleration services to regional tier-two companies including (i) access to the technical expertise, mentoring, and consulting of Grantee's business and engineering faculty, Grantee's economic development practitioners, research faculty, MBA and engineering graduate students, and interns; (ii) intellectual property and technology transfer capabilities developed by Grantee and cooperating universities; (iii) connections to local, state, and national business incubation resources; (iv) assistance and access to capital in the form of grants from agencies including the EDA (as defined below), the National Science Foundation, the National Institutes of Health, the U.S. Department of Commerce, and the Small Business Innovation Research Program; (v) access to capital from angel and venture investors; (vi) mentoring from a network of professionals including patent attorneys, certified public accountants, experienced entrepreneurs, engineers, and sales and marketing professionals; and (vii) incubation coaching and oversight, and (b) cutting-edge laboratory, production, and manufacturing infrastructure and advanced technology and equipment. Among other efforts in support of the Project, Grantee intends to locate its expanded venture acceleration and ongoing business incubation functions at the Project Facility.

H. In respect to the \$7,762,500 cost of design and construction of the Project Facility, (i) \$4,000,000 will be funded by the U.S. Department of Commerce Economic Development Administration (the "EDA") through a grant to the City, (ii) \$2,662,500 will be funded directly by the City and (iii) \$1,100,000 will be funded by Grantee, \$1,000,000 of which is intended to be provided by means of this Grant.

I. In the initial five (5)-year period commencing on the date of issuance of a certificate of occupancy for the Project Facility (the "Effective Date") and ending on the five (5)-year anniversary of the date of issuance of such certificate of occupancy (the "Maturity Date"), Grantee anticipates that the Project will assist in the creation and maintenance of at least three hundred (300) new Qualified Jobs (as hereinafter defined) by client companies which will pay average annual wages of \$60,000. Grantee also anticipates a capital investment in respect to the Project of at least \$7,762,500 associated with the design and construction of the Project Facility.

J. The Authority, in view of its mission to promote economic development throughout Arizona, including rural regions, and based upon preliminary fiscal and economic impact projections for the Project, seeks to assist Grantee in causing development of the Project in Arizona by offering a grant to Grantee in the amount of \$1,000,000 (the "Grant") for use in constructing the Project Facility.

K. The Authority has further determined that the Project's anticipated resulting employment of 300 employees in Quality Jobs (as hereinafter defined) will enhance the economic vitality of Arizona by generating employment opportunities and tax revenues that would not

otherwise exist but for development and implementation of the Project in Arizona pursuant to the terms of this Agreement, and has further determined that the Grant will be of material benefit to Arizona generally, and to rural northern Arizona particularly, in light of such employment opportunities and revenues generated by the development and implementation of the Project in Arizona and potential future expansion of businesses in this State aided by the Project.

L. Based on the Grant provided by the Authority, and acting in reliance thereon, Grantee has agreed to assist the City and NACET in the construction of the Project Facility and the development, operation, and maintenance of the Project in Arizona, and to be bound by the terms of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants, conditions, representations and warranties herein contained, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1: DEFINITIONS

1.1. Defined Terms. For purposes of this Agreement, the following terms shall have the meanings ascribed to them below, unless the context requires otherwise:

1.1.1. “Agreement” shall mean this Agreement and all exhibits and supplements hereto as it or they may be amended or supplemented from time to time as provided in this Agreement.

1.1.2. “Applicable Laws” shall mean the federal, state, county and local laws (statutory and common law), ordinances, rules, regulations, permit requirements, and other requirements and official policies of the State of Arizona (or any applicable political subdivision or agency thereof, including but not limited to the City).

1.1.3. “Applicable Percentage” shall mean as defined in Section 3.1.3.

1.1.4. “Authority” shall mean as set forth in the first grammatical paragraph of this Agreement.

1.1.5. “Business Day” shall mean any day of the year, excluding Saturday, Sunday and any day which is a legal holiday or a day on which banking institutions are authorized by law or other governmental actions to close and are actually closed in Phoenix, Arizona.

1.1.6. “City” shall mean the City of Flagstaff.

1.1.7. “EDA” shall mean as set forth in Recital H.

1.1.8. “Effective Date” shall mean as set forth in Recital I.

1.1.9. “Event of Default” shall mean any of the events described in Section 8.1.

1.1.10. “Governmental Authority” shall mean, as applicable, the United States of America, the State of Arizona, the City, and any other political subdivision, agency, or instrumentality exercising jurisdiction over Grantee and or the Project.

1.1.11. “Grant” shall mean as set forth in Recital J.

1.1.12. “Grant Payments” shall mean payment of the Grant in accordance with Article 3.

1.1.13. “Grantee” shall mean as set forth in the first grammatical paragraph of this Agreement.

1.1.14. “Grantee Information” shall mean as set forth in Section 9.6.

1.1.15. “Grantee’s Closing Affidavit” shall mean Grantee’s Closing Affidavit in form and substance satisfactory to the Authority, to be executed and delivered by Grantee to the Authority upon execution of this Agreement, substantially in the form attached hereto as Exhibit A.

1.1.16. “Grantee’s Payment Affidavit” shall mean Grantee’s Payment Affidavit to be executed and delivered by Grantee to the Authority coincident with any request for a Grant Payment, each substantially in the form attached hereto as Exhibit B.

1.1.17. “Grantee’s Project Obligations” shall mean all of the following:

(i) Grantee shall assist the City and NACET in the construction of the Project Facility and the development, operation and maintenance of the Project;

(ii) Grantee shall commit all Grant Payments exclusively to design and construction of the Project Facility which shall entail a projected capital investment of at least \$7,762,500;

(iii) Grantee shall provide advanced venture acceleration and related services to the Project through at least the Maturity Date; and

(iv) Within the five (5)-year period commencing on the Effective Date and concluding on the Maturity Date, Grantee shall assist in the Project’s creation and maintenance in Arizona of at least 300 new Quality Jobs (“New Jobs”).

1.1.18. “Material Adverse Change” shall mean, in respect to Grantee or the Project, a material and adverse change in the business, operations or financial condition of Grantee or the Project, as the case may be.

1.1.19. “Maturity Date” shall mean as set forth in Recital I.

1.1.20. “New Jobs” shall mean as defined at clause (iv) of Section 1.1.17.

1.1.21. “Notice and Cure Period” shall mean, as used in this Agreement, 5:00 p.m. Arizona Time on the 45th day after the deemed receipt by Grantee from the Authority or by the

Authority from Grantee, in accordance with Section 9.1, of a written notice of failure to perform any covenant or agreement or to pay when due any payment of principal, interest, fees, late charges, or other sums due under the this Agreement, during which forty-five (45)-day period the payment may be made or the performance undertaken and completed.

1.1.22. “Party” or “Parties” shall mean as set forth in the first grammatical paragraph of this Agreement.

1.1.23. “Progress Reports” shall mean the reports required by the Authority from time to time relating to the status of the Project, including as provided by under Section 2.2.1.

1.1.24. “Project” shall mean as set forth in Recital F.

1.1.25. “Project Facility” shall mean as set forth in Recital G.

1.1.26. “Qualified Jobs” shall mean those jobs each of which possesses all of the following characteristics:

- (i) The job is new to Arizona;
- (ii) The job is a permanent job (i.e., not seasonal, on a contract basis for a prescribed period, or otherwise temporary);
- (iii) The job requires a minimum of 1,750 hours of work per year based on the employee’s normal work week;
- (iv) The job is filled by an Arizona resident legally authorized to work in the U.S.;
- (v) The job, when averaged with all New Jobs, provides an average gross annual cash wage of at least \$60,000; and
- (vi) The job includes health insurance benefits for which the employer pays at least 65% of the insurance premium for the employee.

1.1.27. “State” shall mean the state of Arizona.

1.1.28. “Year Three” shall mean the twelve-month period concluding on the third anniversary of the Effective Date.

ARTICLE 2: GRANTEE’S AGREEMENT TO CO-CONSTRUCT THE PROJECT FACILITY AND CO-DEVELOP, OPERATE AND MAINTAIN THE PROJECT; RELATED OBLIGATIONS

2.1 Agreement to Perform Grantee Project Obligations. Subject to the terms and conditions of this Agreement, Grantee shall perform Grantee’s Project Obligations.

2.2 Progress Reports; Site Access.

2.2.1 Schedule and Reporting Periods of Progress Reports. Grantee shall submit Progress Reports to the Authority, in a form satisfactory to the Authority, in accordance with the following schedule:

- (i) Annually, on or before July 31 of each calendar year within the term of this Agreement, reporting on the twelve-month (or shorter) period ending the previous June 30 (coinciding with the date of closing of the Authority's fiscal year).
- (ii) Until the calendar quarter following the close of Year Five quarterly, on or before fifteen (15) Business Days following the close of each calendar quarter; reporting on the period since the preceding quarterly report except in the case of the first quarterly report.
- (iii) Within twenty (20) Business Days after Year Three, reporting on the period from the Effective Date through the close of Year Three.
- (iv) Within twenty (20) Business Days after the Maturity Date, reporting on the period from the Effective Date through the Maturity Date.

The Progress Reports shall detail the following information as applicable: (i) the status of construction of the Project Facility, including the extent of the aggregate capital investment expended thereon; (ii) confirmation of the use made by Grantee of the Grant Payments; (iii) the efforts expended by Grantee in connection with business incubation and advance venture acceleration program activities in respect to the Project including a description of the services provided by Grantee during the period following the preceding Progress Report (if applicable); (iv) the number and identity of the client companies receiving advanced venture acceleration services at the Project Facility; (v) the number of New Jobs created by the Project and the nature thereof as well as the wages and benefits payable in connection with the New Jobs, (vi) the number of New Jobs described in the preceding clause (v) that are maintained through the relevant date addressed by the Progress Report and (vii) such additional information as the Authority may request of Grantee from time to time. If Grantee fails to submit a Progress Report on a timely basis after such document being due, then, subject to the Notice and Cure provisions of Article 8, Grantee shall be authorized to suspend further Grant Payments.

2.2.2 Site Visits. The Authority shall be authorized to conduct site visits during construction of the Project Facility and thereafter. Grantee shall provide access to the Authority for this purpose. In the event Grantee fails to provide requested access, then, subject to the Notice and Cure provisions of Article 8, Grantee shall be authorized to suspend further Grant Payments.

ARTICLE 3: AUTHORITY'S AGREEMENT TO MAKE THE GRANT; PAYMENT OF THE GRANT

3.1 Grant Payments.

3.1.1 General. Subject to the remaining terms and conditions of this Agreement, the Authority shall make Grant Payments to Grantee in an aggregate amount not exceeding \$1,000,000 in accordance with the remaining provisions of this Section 3.1.

3.1.2 Periodic Payments. Subject to Section 3.1.3, the Authority shall make Grant Payments to Grantee following:

- (i) Initial payment of the underlying cost for design and construction of the Project Facility by the City;
- (ii) Transmittal of a written request for reimbursement of Grantee's share of such cost from the City to Grantee;
- (iii) Grantee's transmittal to the Authority of the written request for reimbursement received by Grantee from the City; and
- (iv) Grantee's transmittal to the Authority of Grantee's Payment Affidavit..

Subject to Section 3.1.3(iii), it is expressly provided herein that Grantee need not first pay the City the amount reflected in the request for reimbursement by the City in order to be eligible for a Grant Payment.

3.1.3 Limitations on Payment. Notwithstanding the provisions of Section 3.1.2, the Authority shall not:

- (i) Make Grant Payments to Grantee more frequently than one time each calendar quarter;
- (ii) Make a Grant Payment to Grantee for reimbursement of a share of the Project Facility design and construction cost for which the City has not also requested reimbursement of a share of the cost from the EDA;
- (iii) Make any Grant Payment to Grantee until Grantee has paid the City at least \$100,000 of Grantee's aggregate \$1.1 million share of the Project Facility building design and construction costs, as more particularly described at Recital H of this Agreement;
- (iv) After Grantee's payment to the City described in the preceding clause (iii), make a Grant Payment to Grantee greater than the Applicable Percentage of the then remaining design and construction cost(s) for which reimbursement is sought; or
- (v) After Grantee's payment to the City described in the preceding clause (iii), make a Grant Payment at any time if the then cumulative Grant Payments plus the Grantee's \$100,000 payment to the City described in the preceding clause (iii) would exceed the product of (x) the Applicable Percentage multiplied by (y) the then cumulative cost expended by the City (without regard to reimbursements by the EDA grant or Grantee) in respect to the

design and construction of the Project Facility (but not costs in excess of \$7,762,500).

For purposes of this Agreement, the term “Applicable Percentage” shall mean 14.1706924 percent, which represents the amount, expressed as a percentage, computed by dividing (a) \$1.1 million (corresponding to the maximum amount of the Grant plus Grantee's payment to the City of \$100,000 described in the preceding clause (iii)) by (b) the projected aggregate cost of design and construction of the Project Facility to be funded in total by the City, the EDA, and Grantee (\$7,762,500). Accordingly, it is contemplated that of the first \$705,682 of Project Facility design and construction costs, Grantee will pay the City \$100,000 (the product of (i) \$705,682 multiplied by 14.1706924 percent. Of the next \$7,056,818 in Project Facility design and construction costs, the Authority will pay to Grantee \$1 million (the amount, rounded off, equal to the product of (i) \$7,056,818 multiplied by 14.1706924 percent. The sum of (i) \$705,682 plus (ii) \$7,056,818 equals \$7,762,500, the projected minimum design and construction cost of the Project Facility.

3.1.4 Additional Conditions to Payment. All requests for reimbursement from the City to Grantee shall include copies of applicable vendor's invoices detailing the services provided in respect to the Project as well as the related proof of payment by the City and must also be acknowledged and approved by the City as representing an accurate accounting of construction expenses incurred in respect to the Project.

3.1.5 Ceiling on Payments. Anything in this Agreement to the contrary notwithstanding, if design and construction of the Project Facility is completed at a cost of less than \$7,762,500, the Grant Payments shall be limited to the product of (i) 12.882 percent multiplied by (ii) the actual cost of construction of the Project Facility. The aforementioned 12.882 percent represents the percentage derived by dividing \$1 million by the originally projected \$7,762,500 design and construction cost of the Project Facility.

3.2 Repayment Obligation. Grantee acknowledges and agrees that it will repay all Grant Payments received if Grantee fails to perform clauses (ii) and (iii) of the definition of Grantee's Project Obligations (pertaining to Grantee's obligations to commit all Grant Payments to design and construction of the Project Facility and to provide venture acceleration and related services to the Project through the Maturity Date). Accordingly, the provisions of Section 8.2.3 shall govern if Grantee fails to perform clauses (ii) and (iii) of Grantee's Project Obligations.

ARTICLE 4: CONDITIONS TO THE GRANT PAYMENTS

4.1. Conditions to the Grant. As a condition to receiving any Grant Payment, Grantee shall have satisfied the conditions and requirements of this Section 4.1:

4.1.1 Grantee shall have delivered to the Authority the following documents, duly executed and acknowledged as necessary:

(i) Grantee's Closing Affidavit as of the date of execution of this Agreement;

(ii) Grantee's Payment Affidavit; and

(iii) Copies of all construction contracts for the Project Facility and amendments thereto.

4.1.2 No Event of Default shall exist, and no event of non-performance shall exist which, with the passage of time, could constitute an Event of Default; and

4.1.3 No Material Adverse Change shall have occurred either in respect to Grantee or in respect to the Project since the date of Grantee's application to the Authority for the Grant or since the date of the preceding Grant Payment.

ARTICLE 5: REPRESENTATIONS AND WARRANTIES OF THE AUTHORITY

The Authority hereby represents to Grantee as of the Effective Date as follows:

5.1 The Authority is duly created pursuant to A.R.S. §§ 41-1501 *et seq.*;

5.2 The Authority has duly authorized its President and Chief Executive Officer, Sandra Watson, to enter into this Agreement on behalf of the Authority; and

5.3 The Authority knows of no litigation, proceeding, initiative, referendum, investigation or threat of any of the same contesting the powers of the Authority or its officials with respect to this Agreement that has not been disclosed in writing to Grantee.

ARTICLE 6: REPRESENTATIONS AND WARRANTIES OF GRANTEE

Grantee hereby represents and warrants to the Authority as of the date of execution of this Agreement and as of the time immediately preceding any Grant Payment as follows:

6. 1. All information supplied or delivered to the Authority by Grantee, whether verbally or in writing, in connection with the transactions contemplated by this Agreement is materially true, correct, and complete as of the dates specified therein.

6. 2. There are no actions, suits, or proceedings pending or, to Grantee's knowledge after due inquiry, threatened in any court or before or by any Governmental Authority which materially and adversely (i) affect Grantee's ability to perform Grantee's obligations under the Agreement, (ii) affect the ability to construct and develop the Project, or (iii) which involve the validity, enforceability, or priority of any provision of this Agreement.

6. 3. This Agreement constitutes a valid and binding obligation of Grantee, enforceable in accordance with its terms.

6. 4. Grantee has the organizational power and authority to enter into this Agreement and to carry out the transactions contemplated to be carried out hereunder. The individuals signing this Agreement on behalf of Grantee have full organizational power and authority to do so. All necessary consents, approvals, resolutions and other action required to duly authorize, execute and deliver the Agreement and to perform hereunder, to the extent required by Grantee for such authorization, execution, delivery and performance hereunder, have been obtained or taken by Grantee.

ARTICLE 7: ADDITIONAL COVENANTS AND AGREEMENTS OF GRANTEE

Grantee hereby covenants and agrees with the Authority as follows:

7.1. Grantee, at the Authority's cost, shall cause to permit the Authority, upon reasonable notice during normal business hours, while this Agreement is in effect (i.e., through the Maturity Date), and for one (1) year thereafter, to examine and audit the books and records relating to the Project.

7.2. All representations and warranties made by Grantee in this Agreement (whether contained in Article 6, Article 7 or elsewhere in this Agreement) shall be true and correct in all material respects as of the date of execution hereof and as of the date of any Grant Payment, and Grantee will execute and deliver a Closing Affidavit and Payment Affidavits, affirming that all representations and warranties contained in this Agreement remain materially true and correct at the applicable times.

ARTICLE 8: EVENTS OF DEFAULT; REMEDIES

8.1. Event of Default. The occurrence of any of the following shall constitute an Event of Default by Grantee under this Agreement:

8.1.1 Subject to the Notice and Cure Period to the extent applicable, the failure by Grantee to comply with, perform and discharge, fully and timely, any material covenant, agreement, condition or obligation to be performed by Grantee hereunder, including the obligations set forth in Section 2.2.1, Section 2.2.2, and clauses (ii) and (iii) of Grantee's Project Obligations.

8.1.2 Subject to the Notice and Cure Period to the extent applicable, the material breach of any representation or warranty made by Grantee.

8.1.3 The appointment of a receiver, trustee, conservator, or liquidator in respect to the Project.

8.2 Effect of Event of Default; Remedies.

8.2.1 Termination of Authority's Payment Obligations. Except as otherwise agreed by the Authority in its sole discretion, upon the occurrence of an Event of Default to the extent applicable, the Authority's commitment under this Agreement to make Grant Payments or any outstanding Grant Payments shall immediately terminate.

8.2.2 Remedies. Except as otherwise provided herein, upon the occurrence of an Event of Default by Grantee, including any uncured breach of any provision of this Agreement by Grantee, the Authority may exercise any one or more of the following remedies, all of which are cumulative and non-exclusive and may be pursued separately, successively, or concurrently against Grantee: (i) any remedy contained in this Agreement, including without limitation, the remedies set forth in Section 2.2.1, Section 2.2.2, and Section 3.2, and (ii) any right and remedy available at law or in equity. In the event of any action by the Authority to exercise any such remedies, the Authority shall also be entitled to recover its (i) reasonable attorney's fees and (ii) costs if the

Authority is the prevailing Party in such action.

8.2.3. Repayment Contingency. Notwithstanding the Authority's discretion to exercise any right or remedy at law or in equity following an Event of Default by Grantee, the Authority shall insist on repayment of all Grant Payments made to Grantee only in the event that Grantee fails to perform clauses (ii) and (iii) of Grantee's Project Obligations (pertaining to Grantee's obligations to commit all Grant Payments to design and construction of the Project Facility and to provide venture acceleration and related services to the Project through the Maturity Date). In any such event, Grantee shall be required to repay all Grant Payments received hereunder within twenty (20) Business Days following written notice thereof from the Authority. In the event of any action by the Authority to recover any such amounts required to be repaid by Grantee in accordance with this Section 8.2.3, in whole or in part, the Authority shall be entitled to recover, in addition to the foregoing amounts specified in this Section 8.2.3, its reasonable attorneys fees and costs if it is the prevailing party in such action.

8.3 Remedy of Grantee for Breach by Authority. Upon the occurrence of any breach of this Agreement by the Authority, Grantee, as its sole and exclusive remedy against the Authority, subject to the Notice and Cure Period and subject to Section 9.15, may seek specific performance of the Authority's obligations arising under this Agreement.

8.4 Nonliability of Officials. Notwithstanding anything in this Agreement to the contrary, no officer, representative, agent, attorney or employee of either Party shall be personally liable to any other Party hereto, or to any successor in interest to such Party, in the event of any non-performance or breach hereunder with respect to any obligation under the terms of this Agreement.

ARTICLE 9: GENERAL TERMS AND CONDITIONS

9.1 Notices. Except as otherwise expressly provided herein, all notices, demands, requests, and other communications required or permitted hereunder, shall be in writing and shall be delivered by hand, telegram, facsimile or deposited with the United States Postal Service postage prepaid, registered or certified mail, return receipt requested, or delivered by courier or personal delivery addressed as follows:

If to the Authority:	Arizona Commerce Authority 333 North Central Avenue, Suite 1900 Phoenix, Arizona 85004 Attn: Greg Linaman Telephone No.: 602-845-1255 Facsimile No.: 602-845-1201
----------------------	--

with a required copy to:	Mariscal, Weeks, McIntyre & Friedlander, P.A. 2901 North Central Avenue, Suite 200 Phoenix, Arizona 85012 Attn: David I. Thompson, Esq.
--------------------------	--

Telephone No.: 602-285-5021

Facsimile No.: 602-285-5100

If to Grantee:

Attn: Jennus Burton

Vice President, Finance and Administration

Northern Arizona University

P.O. Box 4088

Flagstaff, Arizona 86011-4088

Phone: 928-523-2708

Facsimile No.: 928-523-4230

with a required copy to:

Richard Bowen

Associate Vice President, Economic Development,

Northern Arizona University

P.O. Box 4074

Flagstaff, Arizona 86011-4088

Phone: 928-523-8831

Facsimile No.: 928 - _____

All notices, requests, demands or other communications that are required or may be given pursuant to the terms of this Agreement will be in writing and will be deemed to have been duly given: (i) on the date of delivery, if personally delivered by hand, (ii) upon the fifth day after such notice is deposited in the United States mail, if mailed by registered or certified mail, postage prepaid, return receipt requested, (iii) upon the date scheduled for delivery after such notice is sent by a nationally recognized overnight express courier if the delivery date is a Business Day, or otherwise on the next Business Day or (iv) if delivered by facsimile, courier or by personal delivery, then notice is deemed delivered upon the date and time of confirmed, actual receipt or refusal of delivery by the representative's agents and employees of Grantee. Any Party may designate a different address or person to whom such notices should be sent by giving notice thereof as provided in this Section 9.1, which change of address shall be effective upon receipt.

9.2 Deleted.

9.3 Amendments; Modifications. No provision of this Agreement may be amended or modified, except by written instrument executed by the Party against whom such amendment or modification is sought to be enforced.

9.4 Limited Severability. The Authority and Grantee each believes that the execution, delivery and performance of this Agreement are in compliance with all Applicable Laws. However, in the unlikely event that any provision of this Agreement is declared void or unenforceable (or is construed as requiring the Authority to do any act in violation of any Applicable Laws, constitutional provision, law, regulation, code or charter), such provision shall be deemed severed from this Agreement, and this Agreement shall otherwise remain in full force and effect; provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed agreement (and any related agreements effective as of the same date) provide essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required.

Telephone No.: 602-285-5021
Facsimile No.: 602-285-5100

If to Grantee:

Attn: Jennus Burton
Vice President, Finance and Administration
Northern Arizona University
P.O. Box 4088
Flagstaff, Arizona 86011-4088
Phone: 928-523-2708
Facsimile No.: 928-523-4230

with a required copy to:

Richard Bowen
Associate Vice President, Economic Development,
Northern Arizona University
P.O. Box 4074
Flagstaff, Arizona 86011-4088
Phone: 928-523-8831
Facsimile No.: 928 - 523-4230

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Unless prohibited by Applicable Laws, the Parties further shall perform all acts and execute all amendments, instruments and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.

9.5 No Waiver; the Parties' Standard for Consents. No waiver by either Party of any of that Party's rights or remedies hereunder, shall be considered a waiver of any other or subsequent right or remedy of either Party; no delay or omission in the exercise or enforcement by either Party of any rights or remedies shall be construed as a waiver of any other right or remedy of either Party; and, to the extent permitted by applicable law, no exercise of enforcement of any such rights or remedies shall be held to exhaust any right or remedy of either Party. Unless otherwise provided in this Agreement, all consents of either Party permitted or required under this Agreement shall be given or withheld in that Party's sole discretion.

9.6 Confidentiality. The Authority may not disclose to any Person any confidential, proprietary or non-public information of Grantee furnished to the Authority by Grantee or its representatives (such information being referred to collectively herein as the "Grantee Information"), except that the Authority may disclose Grantee Information (i) to its and its affiliates' employees, officers, directors, agents and advisors who have a need to know (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Grantee Information and instructed to keep such Grantee Information confidential on substantially the same terms as provided herein), (ii) to the extent required by Applicable Laws or regulations or by any subpoena or similar legal process, (iii) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to this Agreement or the enforcement of rights hereunder, and (iv) with the consent of Grantee. The obligations under this Section 9.6 shall survive the termination of this Agreement.

9.7 No Third Party Beneficiary. This Agreement is for the sole benefit of the Authority and Grantee and, except insofar as it relates to assistance with the design and construction of the Project, is not for the benefit of any third party.

9.8 Number and Gender. Whenever used herein, the singular number shall include the plural and the singular and the use of any gender shall be applicable to all genders.

9.9 Captions. The captions, headings, and arrangements used in this Agreement are for convenience only and do not in any way affect, limit, amplify, or modify the terms and provisions hereof.

9.10 Governing Law; Venue. This Agreement shall be deemed to be made under, shall be construed in accordance with, and shall be governed by the internal, substantive laws of the State of Arizona (without reference to conflict of law principles). Any action brought to interpret, enforce or construe any provision of this Agreement shall be commenced and maintained solely and exclusively in the Superior Court of the State of Arizona in and for the County of Maricopa (or, as may be appropriate, in the Justice Courts of Maricopa County, Arizona, or in the United States District Court for the District of Arizona). The Parties irrevocably consent to sole and exclusive jurisdiction and venue in such courts for such purposes and waive all rights to seek transfer or removal of any action commenced under or in connection with this Agreement.

9.11 Time of the Essence. Time is of the essence with respect to each and every term and condition of this Agreement to be performed by Grantee hereunder.

9.12 Attorneys' Fees. In the event of a breach by any Party of any provision of this Agreement and commencement of a subsequent legal action in an appropriate forum, or in the event of an action seeking a declaration of the rights or liabilities of the Parties, the prevailing Party in any such dispute shall be entitled to reimbursement of its reasonable attorney's fees and court costs, including, but not limited to, its costs of expert witnesses, transportation, lodging and meal costs of the parties and witnesses, costs of transcript preparation and other reasonable and necessary direct and incidental costs of such dispute.

9.13 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall be deemed one and the same document.

9.14 Recitals. The Recitals are incorporated herein by this reference and made an integral part hereof.

9.15 Unavailability of Funds. In the event no funds or insufficient funds are available or allocated for any payment that may be due under this Agreement, including no funds or insufficient funds resulting from an act (or a failure to act) of the Legislature of the State, for any portion of the term or renewal of the Agreement, the Parties will be without further obligation under the Agreement. No liability shall accrue to the Parties or to any agency of the State in the event the provision of this paragraph is exercised or occurs, and neither the Parties nor any agency of the State of Arizona shall be obligated or liable for any future payments or for any damages as a result of termination of the Agreement under this paragraph; provided, however, the Authority shall request approval or appropriation from the legislature as needed to make payments due under this Agreement.

9.16 Conflict of Interest. The requirements of A.R.S. § 38-511 apply to this Agreement. The Authority may cancel the Agreement, without penalty or further obligation, if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on the Authority's behalf is, at any time while this Agreement or any extension is in effect, Grantee's employee or agent with respect to the subject matter of the Agreement.

9.17 Compliance with the Law. Grantee shall promptly execute and comply with A.R.S. § 41-4401, immigration laws and E-Verify requirement. Grantee warrants compliance with all federal immigration laws and regulations relating to its employees and warrants compliance with A.R.S. § 23-214. A breach of Grantee's warranty regarding compliance with immigration laws and regulations shall be deemed a material breach of this Agreement and the Authority, in such event, may terminate this Agreement; provided, however, that the Authority shall not deem Grantee to be in material breach of the Agreement if it has complied with the employment verification provisions prescribed by sections 274a and 274b of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. § 23-214, subsection A. The Authority retains the legal right to inspect the papers of any employee who works on this Agreement to ensure Grantee is in compliance with Grantee's warranty under this paragraph.

9.18 No Assignment. The Parties acknowledge that this Agreement, and the Grant made to Grantee, is personal to Grantee and is based solely and exclusively upon factors relevant to Grantee's unique qualifications and experience, and that Grantee may not assign or transfer (which shall include but not be limited to encumbering or hypothecating), in whole or in part, this Agreement, or its rights or obligations arising under this Agreement (including its right to receive any funds or grant monies payable hereunder), in whole or in part, to any other person or entity, or for any purpose not specified herein, without the prior written consent of the Authority, which may be granted, withheld, delayed or conditioned in the Authority's sole, absolute and unfettered discretion. Any assignment, or attempted or purported assignment, in violation of this Section 9.18 shall be void, and not voidable, and shall vest no rights in the purported assignee or transferee.

9.19 Successors Bound. This Agreement shall inure to the benefit of, and shall be binding upon, each of the Parties and their successors and assigns hereunder.

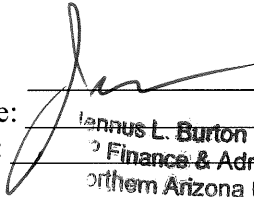
9.20 Force Majeure. Each party shall be excused from performance in its obligations hereunder to the extent such failure to perform is caused by an event of "Force Majeure." "Force Majeure" means the actual period of any delay caused by any legal challenges or defenses to the actions taken or to be taken in connection with this Agreement, condemnation, strike or labor disputes, unavailability of materials, extraordinarily severe weather conditions, riot or civil disorder, other acts of God or other cause beyond such party's reasonable control. The party claiming Force Majeure shall give prompt written notice to the other party of the occurrence of such Force Majeure and shall use reasonable efforts to remove or minimize its effects forthwith.

[Signatures are on the following page.]

IN WITNESS WHEREOF, this Agreement has been executed and delivered by the Parties on the date set forth in the first grammatical paragraph hereof.

GRANTEE:

ARIZONA BOARD OF REGENTS , a body
corporate with perpetual existence, for and on behalf
of NORTHERN ARIZONA UNIVERSITY

By: 
Name: Jannus L. Burton
Title: Finance & Admin
Northern Arizona University

AUTHORITY:

ARIZONA COMMERCE AUTHORITY,
an agency of the State of Arizona


By: 
Name: Sandra Watson
Its: President and CEO

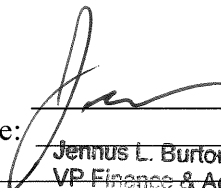
Exhibit A

CLOSING AFFIDAVIT

The undersigned hereby certifies that he/she is the VP Finance & Admin of Northern Arizona University ("Grantee"), and is authorized to deliver this affidavit for and on behalf of Grantee; and further declares, solely in such capacity for Grantee and not individually, that:

1. The undersigned has examined the Agreement dated March 4, 2014 by and between Grantee and the Arizona Commerce Authority, an agency of the State of Arizona (the "Agreement"); and
2. To the knowledge of the undersigned, the representations and warranties of Grantee set forth in Article 6 of the Agreement are true and correct in all material respects.

Executed this ____ day of March, 2014.

By: 
Name: _____
Its: Jennus L. Burton
VP Finance & Admin
Northern Arizona University

STATE OF ARIZONA)
) ss.
County of Coconino)

On March ____, 2014, before me, the undersigned Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

My Commission Expires:

Exhibit B

PAYMENT AFFIDAVIT

The undersigned hereby certifies that he/she is the _____ of Northern Arizona University ("Grantee"), and is authorized to deliver this affidavit for and on behalf of Grantee; and further declares, solely in such capacity for Grantee and not individually, as set forth below. (All capitalized terms mean as defined in the Agreement between the Arizona Commerce Authority and Grantee dated March 4, 2014 (the "Agreement").)

1. To the knowledge of the undersigned, the representations and warranties of Grantee set forth in Article 6 of the Agreement remain true and correct in all material respects.

2. No Event of Default exists, and no event of non-performance exists which, with the passage of time, could constitute an Event of Default. Among other matters, Grantee has submitted all Progress Reports due as of the date hereof

3. No Material Adverse Change has occurred either in respect to Grantee or in respect to the Project since the date of Grantee's application to the Authority for the Grant or since the date of any preceding Grant Payment.

4. Grantee has furnished the Authority with copies of all construction contracts for the Project Facility and all amendments thereto.

5. Attached is all documentation referenced by Section 3.1 which corroborates the amount of the Grant Payment requested.

Executed this ____ day of _____, 20__.

By: _____
Name: _____
Its: _____

STATE OF ARIZONA)

) ss.

County of Coconino)

On _____, 20__, before me, the undersigned Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public

CITY OF FLAGSTAFF
STAFF SUMMARY REPORT

To: The Honorable Mayor and Council
From: Dan Folke, Planning Director
Co-Submitter: Barbara Goodrich
Date: 03/24/2014
Meeting Date: 04/01/2014



TITLE:

Public Hearing on proposed Public Safety development fees (impact fees).

RECOMMENDED ACTION:

- 1) Hold the public hearing.
- 2) Direct staff to prepare ordinance to adopt proposed fees for May hearings.

Policy Decision or Reason for Action:

The City is in process of completing the steps required by the State of Arizona to support continuation of the Public Safety development fee program. A public hearing on the proposed development fees supported by the February 7, 2014 TischlerBise report is required. Staff believes development fees provide a consistent and predictable expense for the construction industry and predictable revenue for the City's public safety capital budget and debt retirement.

Financial Impact:

Development Fees collected will be used to help fund capital improvements and equipment necessary to meet the demand generated by new residential and non-residential growth. The alternative to development fees is to identify the impact of each project during the entitlement process and include public safety fees in a project development agreement, fund increased demand through General Fund revenues or decrease the level of service.

Connection to Council Goal:

Retain, expand, and diversify economic base
Effective governance

Previous Council Decision on This:

The Flagstaff City Council first adopted Public Safety Development Fees in October 2008 and amended the program in 2011 to be consistent with State law. The current City Council held a public hearing on the Land Use Assumptions (LU) and Infrastructure Improvement Plan (IIP) on December 19, 2013, adopted the LU and IIP on February 18, 2014.

Options and Alternatives:

1. Hold the public hearing and direct staff to prepare an adoption Ordinance for the fees as proposed.
2. Hold the public hearing and direct staff to prepare an adoption Ordinance for revised fees.
3. Hold the public hearing and discontinue the Public Safety Development Fee program.

Background/History:

Arizona Revised Statute 9-463.05, adopted during the 2011 legislative session, significantly amended development fee enabling legislation. Commonly known as SB1525, this legislation called for:

1. Amending existing development program changes by January 1, 2012. The City met this condition by adopting the amendment of the existing development program on December 6, 2011; and
2. Abandoning the existing development fee programs by August 1, 2014. To accomplish the abandonment and subsequent adoption by August 1, the City must follow a prescribed schedule allowing adequate time for public input and Council discussion.

On February 18, 2014 the City Council adopted the Land Use Assumptions and Infrastructure Improvement Plan. The next step is to hold a public hearing on the fees and consider adopting the fees by Ordinance in May. In order to meet the 75-day waiting period required after fee adoption and before August 1, the second reading of the Ordinance will need to be considered at a Special Regular Meeting on May 13.

At the February 18 meeting, City Council had questions about whether impact fees could be waived or reduced as an incentive for affordable housing units. City Council adopted an Incentive Policy for Affordable Housing in October 2009. The policy considers a number of incentives including fee waivers and deferments; expedited review; and regulatory incentives such as density bonuses, open space ratios, resource protection plans, and parking. Reimbursement of impact fees are included in the fee eligibility list found on page 11 of the Incentive Policy. The Housing Director has explained that impact fees can be reimbursed to the applicant directly after they have paid the impact fee, or the impact fee has been paid on behalf of the applicant. In both cases the fee is paid from an incentive fund in the Housing budget. So while the impact fee can be waived, the fund is kept whole by the payment from the incentive fund. The Incentive Policy for Affordable Housing can be viewed from the City's website at <http://www.flagstaff.az.gov/DocumentCenter/View/42650> or by clicking on the Resources/Contacts tab on the Housing page.

Key Considerations:

Impact fees provide a base standard which allows for predictability and developers can plan for as they prepare development projects in our community. Should impact fees not be assessed, the same type of financial consideration will need to be attained as part of a project's impact analysis. This is typically achieved through a development agreement when the cost to mitigate project impacts is determined. While impact fees are paid at the time a building permit is issued, development agreements may specify payment prior to seeking building permits at the time a project's public improvements are required.

Expanded Financial Considerations:

The Development Fee Report calculates Public Safety fees supported by projected growth over a ten-year period. However, the development fees must be re-examined every five years to assure the land use assumptions and proposed capital improvement program are representative of the experienced demand or require an update to meet the current community need.

Community Benefits and Considerations:

Development fees assess new growth a proportionate share of the cost to provide the services needed to meet the additional calls for service. Alternatives to public safety impact fees are to identify the cost to provide services and negotiate the payment at the time of entitlement (zoning map amendment or subdivision), to fund the increased service demand through other General Fund revenues or to decrease the level of service.

Community Involvement:

Inform - Staff has prepared an informational memo on the current process, proposed fees, proposed 10-year capital program and 10-year projected revenues (attached to this summary). Staff has distributed this memo to the group of stakeholders which includes building industry organizations and neighborhood associations previously contacted about the land use and infrastructure plan.

Consult - To date staff has presented the current fees to Northern Arizona Builders Association and the Chamber of Commerce Government Affairs Committee. The information piece identifies the April 1, 2014 public hearing and encourages participation. Discussion at these meetings has not been supportive of the proposed increases. Comments have focused on why do the fees need to be increased?; the additional property and sales tax generated by new growth should be enough to pay for increased calls for service; has the City considered trying to reduce the demand (e.g., response to medical calls) rather than meet the increased demand?; how much is the City spending on consultants and staff time for the small amount of projected revenues?

Expanded Options and Alternatives:

1. Hold the public hearing and direct staff to prepare an adoption Ordinance for the fees as proposed.
2. Hold the public hearing and direct staff to prepare an adoption Ordinance for revised lower fees.
3. Hold the public hearing and discontinue the Public Safety Development Fee program.

Attachments: TischlerBise Feb. Report
Public Outreach memo
Projected costs & revenues

**DRAFT – CITY OF FLAGSTAFF PUBLIC SAFETY
DEVELOPMENT FEES,
INFRASTRUCTURE IMPROVEMENTS PLAN,
AND LAND USE ASSUMPTIONS**

Prepared for:
City of Flagstaff, Arizona

February 7, 2014



4701 Sangamore Road, Suite S240
Bethesda, MD
301.320.6900
www.tischlerbise.com

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EXECUTIVE SUMMARY

The City of Flagstaff has engaged TischlerBise to update its Public Safety development fees for necessary public services pursuant to Arizona Revised Statutes 9-463.05. Municipalities in Arizona may assess development fees to offset infrastructure costs to a municipality associated with providing necessary public services to a development. The development fees must be based on an Infrastructure Improvements Plan. Development fees cannot be used for, among other things: projects not included in the Infrastructure Improvements Plan, projects related to existing development, or costs related to operations and maintenance.

This Infrastructure Improvements Plan and associated update to the City of Flagstaff Public Safety development fees include the following necessary public services:

- Fire
- Police

This plan includes all necessary elements required to comply with the Arizona Revised Statute 9-463.05.

ARIZONA DEVELOPMENT FEE ENABLING LEGISLATION

Arizona Revised Statute 9-463.05 (hereafter referred to as “development fee enabling legislation”) governs how development fees are calculated for municipalities in Arizona. During the state legislative session of 2011, Senate Bill 1525 (SB 1525) was introduced which significantly amended the development fee enabling legislation. The changes included:

- Amending existing development fee programs by January 1, 2012;
- Abandoning existing development fee programs by August 1, 2014;
- A new development fee program structure developed from a unified Land Use Assumptions document and Infrastructure Improvements Plan;
- New adoption procedures for the Land Use Assumptions, Infrastructure Improvements Plan, and development fees;
- New definitions, including “necessary public services” which defines what categories and types of infrastructure may be funded with development fees;
- Time limitations in development fee collections and expenditures; and
- New requirements for credits, “grandfathering” rules, and refunds.

Governor Brewer signed SB 1525 into law on April 26, 2011. This update of the City’s Public Safety development fees will comply with all of the new requirements of SB 1525.

NECESSARY PUBLIC SERVICES

The City of Flagstaff currently collects development fees for the following infrastructure categories:

- Fire
- Police

Under the new requirements of the development fee enabling legislation, development fees may be used only for construction, acquisition or expansion of public facilities that are necessary public services. “Necessary public service” means any of the following categories of facilities that have a life expectancy of three or more years and that are owned and operated on behalf of the municipality:

- Water Facilities
- Wastewater Facilities

- Storm Water, Drainage, and Flood Control Facilities
- Library Facilities
- Streets Facilities
- Fire and Police Facilities
- Neighborhood Parks and Recreational Facilities
- Any facility that was financed before June 1, 2011 and that meets the following requirements:
 1. Development fees were pledged to repay debt service obligations related to the construction of the facility.
 2. After August 1, 2014, any development fees collected are used solely for the payment of principal and interest on the portion of the bonds, notes, or other debt service obligations issued before June 1, 2011 to finance construction of the facility.

INFRASTRUCTURE IMPROVEMENTS PLAN

Development fees must be calculated pursuant to an Infrastructure Improvements Plan (hereafter referred to as the “IIP”). For each necessary public service that is the subject of a development fee, by law, the infrastructure improvements plan shall include the following seven elements:

Element #1: A description of the existing necessary public services in the service area and the costs to upgrade, update, improve, expand, correct or replace those necessary public services to meet existing needs and usage and stricter safety, efficiency, environmental or regulatory standards, which shall be prepared by qualified professionals licensed in this state, as applicable.

Element #2: An analysis of the total capacity, the level of current usage and commitments for usage of capacity of the existing necessary public services, which shall be prepared by qualified professionals licensed in this state, as applicable.

Element #3: A description of all or the parts of the necessary public services or facility expansions and their costs necessitated by and attributable to development in the service area based on the approved land use assumptions, including a forecast of the costs of infrastructure, improvements, real property, financing, engineering and architectural services, which shall be prepared by qualified professionals licensed in this state, as applicable.

Element #4: A table establishing the specific level or quantity of use, consumption, generation or discharge of a service unit for each category of necessary public services or facility expansions and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial and industrial.

Element #5: The total number of projected service units necessitated by and attributable to new development in the service area based on the approved land use assumptions and calculated pursuant to generally accepted engineering and planning criteria.

Element #6: The projected demand for necessary public services or facility expansions required by new service units for a period not to exceed ten years.

Element #7: A forecast of revenues generated by new service units other than development fees, which shall include estimated state-shared revenue, highway users revenue, federal revenue, ad valorem property taxes, construction contracting or similar excise taxes and the capital recovery portion of utility fees attributable to development based on the approved land use assumptions, and a plan to include these contributions in determining the extent of the burden imposed by the development.

QUALIFIED PROFESSIONALS

The IIP must be developed by qualified professionals using generally accepted engineering and planning practices. A qualified professional is defined as “a professional engineer, surveyor, financial analyst or planner providing services within the scope of the person’s license, education, or experience.”

TischlerBise is a fiscal, economic, and planning consulting firm specializing in the cost of growth services. Our services include development fees, fiscal impact analysis, infrastructure financing analyses, user fee/cost of service studies, capital improvement plans, and fiscal software. TischlerBise has prepared over 800 development impact fee studies over the past 30 years for local governments across the United States.

DEVELOPMENT FEES

CALCULATION METHODOLOGIES

Development fees for the necessary public services generated by new development must be based on the same level of service provided to existing development in the service area. There are three basic methodologies used to calculate development fees. They examine the past, present, and future status of infrastructure. The objective of evaluating these different methodologies is to determine the best measure of the demand created by new development for infrastructure capacity.

- **Cost recovery method (past)** is used in instances when a community has oversized a facility or asset in anticipation of future development. This methodology is based on the rationale that new development is repaying the community for its share of the remaining unused capacity.
- **Incremental expansion method (present)** documents the current level of service for each type of public facility. The intent is to use revenue collected to expand or provide additional facilities, as needed to accommodate new development, based on the current cost to provide capital improvements.
- **Plan-based method (future)** utilizes a community's capital improvement plan and/or other adopted plans or engineering studies to guide capital improvements needed to serve new development.

Figure 1 is a summary of the methodologies and components used to calculate the IIP and development fees.

Figure 1: Recommended Calculation Methodologies

Type of Necessary Public Services	Methodology		
	Cost Recovery (Past)	Incremental Expansion (Present)	Plan Based (Future)
Fire	<ul style="list-style-type: none">• Facilities• Apparatus• Equipment• Communications Infrastructure	<ul style="list-style-type: none">• Vehicles• Communications Equipment	Not Applicable
Police	<ul style="list-style-type: none">• Communications Infrastructure	<ul style="list-style-type: none">• Facilities• Vehicles• Communications Equipment	Not Applicable

Reporting Results

Calculations throughout this Study are based on analysis conducted using Excel software. Formulas and results are discussed herein using one-and two-digit place (in most cases), which represent rounded figures. However, the analysis itself uses figures carried to their ultimate decimal places; therefore the sums and products generated in the analysis may not equal the sum or product if the reader replicates the calculation with the factors shown in the Study (due to the rounding of figures shown, not in the analysis.)

PROPOSED DEVELOPMENT FEES

Based on the data, assumptions, and calculation methodologies in the [Land Use Assumptions](#) and Infrastructure Improvement Plans, the maximum supportable development fees are listed in the figure below:

Figure 2: Maximum Supportable City of Flagstaff Public Safety Development Fees

		Fire	Police	TOTAL Development Fee
		~~~~~ Per Housing Unit ~~~~~		
<b>Residential</b>	<b>Number of Bedrooms</b>			
2+ Units	All Sizes	\$474	\$362	\$836
Single Unit	0-3	\$484	\$370	\$854
Single Unit	4+	\$607	\$464	\$1,071
Single Unit	Avg	\$508	\$388	\$896
		~~ Per Square Foot of Floor Area ~~		
<b>Nonresidential</b>				
Commercial		\$0.89	\$0.63	\$1.52
Office/Institutional		\$0.34	\$0.25	\$0.59
Industrial/Flex		\$0.12	\$0.09	\$0.21

Source: TischlerBise

### COMPARISON TO CURRENT DEVELOPMENT FEES

The City of Flagstaff currently collects development fees for the following infrastructure categories:

- Fire
- Police

The City's current development fees, effective as of January 1, 2012, are shown below.

**Figure 3: City of Flagstaff Development Fees, Effective January 1, 2012**

Current Development Fee Schedule		Fire	Police	Current Development Fee	
Residential	Number of Bedrooms	~~~~~ Per Housing Unit ~~~~~			
	2+ Units	All Sizes	\$352	\$184	\$536
	Single Unit	0-3	\$444	\$231	\$675
	Single Unit	4+	\$444	\$231	\$675
	Single Unit	Avg	\$444	\$231	\$675
Nonresidential [1]		~~ Per Square Foot of Floor Area ~~			
Commercial		\$0.81	\$0.68	\$1.49	
Office/Institutional		\$0.28	\$0.24	\$0.52	
Industrial/Flex		\$0.07	\$0.06	\$0.13	

Source: TischlerBise. (28Nov11). January 1, 2012 Interim Development Fees

[1] The 2012 nonresidential fees were by size thresholds, averages are shown here.

The changes between the proposed fees and the current fees are shown in the figure below. Note: the red figures in parentheses represent decreases in fee amounts.

**Figure 4: Changes Between City of Flagstaff Current and Proposed Development Fees**

		Net Change			
		Fire	Police	Development Fee	
Residential	Number of Bedrooms	~~~~~ Per Housing Unit ~~~~~			
	2+ Units	All Sizes	\$122	\$178	\$300
	Single Unit	0-3	\$40	\$139	\$179
	Single Unit	4+	\$163	\$233	\$396
	Single Unit	Avg	\$64	\$157	\$221
			~~ Per Square Foot of Floor Area ~~		
Nonresidential					
Commercial		\$0.08	(\$0.05)	\$0.03	
Office/Institutional		\$0.06	\$0.01	\$0.07	
Industrial/Flex		\$0.05	\$0.03	\$0.08	

Source: TischlerBise

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## FIRE FACILITIES INFRASTRUCTURE IMPROVEMENTS PLAN

### OVERVIEW

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ARS 9-463.05 (T)(7)(f) defines the facilities and assets, which can be included in the Fire Facilities IIP:

*“Fire and police facilities, including all appurtenances, equipment and vehicles. Fire and police facilities do not include a facility or portion of a facility that is used to replace services that were once provided elsewhere in the municipality, vehicles and equipment used to provide administrative services, helicopters or airplanes or a facility that is used for training police and firefighters from more than one station or substation.”*

The Fire Facilities IIP includes components for the Fire facilities, Fire fleet (vehicles/apparatus/equipment), and the Fire Department’s proportionate share of the City of Flagstaff public safety communications command center system (communications equipment and infrastructure), and the cost of preparing the Fire Facilities IIP and Development Fee Study. Cost recovery is used to calculate the IIP for the Fire facilities, apparatus, equipment, and communications infrastructure. Incremental expansion is used to calculate the Fire vehicles and communications equipment elements of the Fire IIP and Development Fees.

### SERVICE AREA

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The City’s Fire facilities and assets serve the entire city. The service area for the Fire Facilities IIP and development fees is Citywide.

### PROPORTIONATE SHARE

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ARS 9-463.05 (B)(3) states that the development fee shall not exceed a proportionate share of the cost of necessary public services needed to accommodate new development. The Fire IIP uses a proportionate share concept to allocate the demand between residential and nonresidential development. The demand for Fire facilities and assets in City of Flagstaff is measured by annual calls for service. Calls for service data from 2012, in combination with functional population factors (described below), were used to determine the relative demand for service from residential and nonresidential development.



## Functional Population

TischlerBise recommends functional population to allocate the cost of Fire Facilities to residential and nonresidential development. Functional population has a long history in the professional literature. Originally called activity analysis by Stuart Chapin in 1965, and incorporated into development impact fee methodology by James Nicholas in the mid-1980s, functional population has been used to equitably spread infrastructure costs between residential and nonresidential sectors. TischlerBise has refined the functional population concept by incorporating what the U.S. Census Bureau calls “daytime population.” Using jurisdiction-specific data on commuting patterns, it is now possible to account for where people live and work (i.e., spend their daily hours). As shown below, residents that do not work are assigned 20 hours per day to residential development and four hours per day to nonresidential development (annualized averages). Residents that work in Flagstaff are assigned 14 hours to residential development and 10 hours to nonresidential development. Residents that work outside Flagstaff are assigned 14 hours to residential development. Inflow commuters are assigned 10 hours to nonresidential development. Based on 2010 decennial census and Longitudinal Employer-Household Dynamics data, both provided by the U.S. Census Bureau, the cost allocation for residential development is 70 percent, while nonresidential development accounts for 30 percent of the demand for Fire Facilities.

Figure 5: City of Flagstaff Functional Population

	<u>Demand Units in 2010</u>	<u>Demand</u> <u>Hours/Day</u>	<u>Person</u> <u>Hours</u>
<b>Residential</b>			
Population	65,870		
Residents Not Working	36,843	20	736,860
Resident Workers	29,027		
Worked in City	17,161	14	240,254
Worked Outside City	11,866	14	166,124
Residential Subtotal			1,143,238 <b>70%</b>
<b>Nonresidential</b>			
Non-working Residents	36,843	4	147,372
Jobs Located in City	34,744		
Residents Working in City	17,161	10	171,610
Non-Resident Workers (inflow commuters)	17,583	10	175,830
Nonresidential Subtotal			494,812 <b>30%</b>
TOTAL			1,638,050

Source: U.S. Census Bureau, 2010 Decennial Census; U.S. Census Bureau, OnTheMap 6.1.1 Application and LEHD Origin-Destination Employment Statistics

## Service Units

The Fire Facilities costs are allocated to both residential and nonresidential development based on an analysis of functional population and calls for service. For residential development, fees are calculated on a per capita basis, and then converted to an appropriate amount by type of housing unit based on persons per household.

For nonresidential development fees, TischlerBise recommends using nonresidential vehicle trips as the demand indicator for Fire Facilities. Trip generation rates are used for nonresidential development because vehicle trips are highest for commercial developments, such as shopping centers, and lowest for industrial/flex development. Office and institutional trip rates fall between the other two categories. Because the Fire Department responds to emergency medical services calls for service this ranking of trip rates is consistent with the relative demand for Fire services from nonresidential development.

Other possible nonresidential demand indicators, such as employment or floor area, would not accurately reflect the demand for service. For example, if employees per thousand square feet were used as the demand indicator, Fire development fees would be too high for office and institutional development because offices typically have more employees per 1,000 square feet than retail uses. If floor area were used as the demand indicator, Fire development fees would be too high for industrial development. More information regarding the calculation of nonresidential vehicle trips can be found in Figure 17: Fire Facilities Ratio of Service Unit to Land Use.

## Fire Department Calls for Service

The functional population allocation to residential (70%) and nonresidential (30%) development is applied to the 2012 calls for service data provided by the City of Flagstaff Fire Department to derive calls for service per service unit (i.e., population for residential development, and vehicle trips for nonresidential development). Of the Fire Department's 10,178 calls for service, 7,125 are assigned to residential development, and 3,053 are assigned to nonresidential development, based on functional population.

**Figure 6: Fire Facilities Proportionate Share**

	<b>2012</b>
<b>Total Calls for Service</b>	10,178

*Source: City of Flagstaff, Fire Department*

Land Use	Proportionate Share	Estimated Calls for Service (CFS)	2013 Service Units	CFS per Service Unit
Residential	70%	7,125	74,941 Population	0.10
Nonresidential	30%	3,053	102,819 Nonres Vehicle Trips	0.03

## Public Safety Communications Command Center Calls for Service

The City of Flagstaff shares a Public Safety Communications Command Center and associated infrastructure with Coconino County and surrounding public safety agencies. The shared command center received 71,475 calls for service from all jurisdictions in calendar year 2012. Calls for service for the City of Flagstaff Fire Department accounted for 14 percent of the total public safety calls for service received. This proportionate share factor will be used to calculate the demands placed on the *communications equipment* (e.g., portable communication radios, and stationary computer components) by the Fire Department.

Proportionate share factors for demands placed on the *communications infrastructure* (e.g., telecommunications towers for wireless network) by the Fire Department were provided by the City of Flagstaff Police Department based on use by the City's Fire, Police, and Public Works departments, and other jurisdictions. Proportionate share factors for *communications infrastructure* differ from *communications equipment* due to additional impact from Public Works. Proportionate share factors are shown below.

Figure 7: Public Safety Communications Command Center Proportionate Share¹

Public Safety Agency	Calls for Service [1]	Proportionate Share for Communications	
		Equipment [1]	Infrastructure [2]
Flagstaff Police	43,304	61%	27%
Flagstaff Fire	10,178	14%	18%
Other Jurisdictions	17,993	25%	26%
Flagstaff Public Works	Not Applicable	0%	29%
<b>Total Calls Received in 2012</b>	71,475	100%	100%

[1] Proportionate share factors for Communications Equipment are based on total calls for service dispatched by the Public Safety Communications Command Center.

[2] Proportionate share factors (shown here as rounded figures) for Communications Infrastructure were provided by the City of Flagstaff Police Department. The City of Flagstaff Department of Public Works places demands on the communications infrastructure but not on the Public Safety Communications Command Center.

¹ The proportionate share factors by department for the *Communications Infrastructure* are shown as rounded figures. However, the analysis itself uses figures carried to their ultimate decimal places; therefore the sums and products generated in the analysis may not equal the sum or product if the reader replicates the calculation with the factors shown here (due to the rounding of figures shown, not in the analysis.)

## IIP FOR FIRE FACILITIES

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For each necessary public service that is the subject of a development fee, ARS 9-463.05(E) requires that the IIP include seven elements. The sections below detail each of these elements. (A forecast of new revenues generated by sources other than development fees can be found in **Appendix B – Forecast of Revenues Other Than Development Fees.**)

### Analysis of Capacity, Usage, and Costs of Existing Public Services

ARS 9-463.05(E)(1) requires:

*“A description of the existing necessary public services in the service area and the costs to upgrade, update, improve, expand, correct or replace those necessary public services to meet existing needs and usage and stricter safety, efficiency, environmental or regulatory standards, which shall be prepared by qualified professionals licensed in this state, as applicable.”*

ARS 9-463.05(E)(2) requires:

*“An analysis of the total capacity, the level of current usage and commitments for usage of capacity of the existing necessary public services, which shall be prepared by qualified professionals licensed in this state, as applicable.”*

## Fire Facilities

### Level of Service

The City recently completed a multi-year plan to relocate and expand its Fire facilities. The current inventory of qualified Fire facilities totals 59,197 square feet, which includes excess capacity to serve future demand. The level of service (LOS) for Fire facilities is a measure of square feet per service unit. The current LOS for residential development is calculated as follows: (59,197 square feet X 70% residential proportionate share)/74,941 persons) = 0.55 square feet per capita.² This calculation is repeated for nonresidential development using 2013 nonresidential vehicle trips. The results are shown in Figure 8.

**Figure 8: Level of Service – Fire Facilities**

Facility [1]	Total Square Feet	Cost/SF	Replacement Cost
Station 1	7,913	\$520	\$4,114,760
Station 2	14,631	\$352	\$5,150,112
Station 3	9,340	\$333	\$3,110,220
Station 4	5,600	\$232	\$1,299,200
Station 5	7,913	\$487	\$3,853,631
Station 6	9,000	\$337	\$3,033,000
Station 10 (Airport)	2,800	\$250	\$700,000
Current Fire Mechanic Space	2,000	\$250	\$500,000
<b>TOTAL</b>	<b>59,197</b>	<b>\$368</b>	<b>\$21,760,923</b>

Source: City of Flagstaff Fire Department

[1] Reflects non-administrative space

Service Unit	Proportionate Share	2013	2020	2023
City Population	70%	74,941	80,918	83,025
	Square Feet Per Capita	0.55	0.51	0.50
Nonresidential Vehicle Trips	30%	102,819	109,630	112,683
	Square Feet per Nonresidential Vehicle Trip	0.17	0.16	0.16

Debt was issued in 2006 and 2012 to help fund the expansion of Fire facilities. As new development utilizes its proportionate share of the available capacity of existing Fire facilities, the City plans to have it pay a proportionate share of the remaining debt, scheduled to be retired in 2020 and 2023. As shown above, if no new Fire facilities are added and development occurs at the rate shown in the [Land Use Assumptions](#), the LOS for Fire facilities will change over the next ten years. The current LOS is 0.55 square feet per capita and 0.17 square feet per nonresidential vehicle trip. By 2023, the LOS for current Fire facilities will be 0.50 and 0.16 respectively.

² Level of service is shown as a rounded figure. However, the analysis itself uses figures carried to their ultimate decimal places; therefore the sums and products generated in the analysis may not equal the sum or product if the reader replicates the calculation with the factors shown here (due to the rounding of figures shown, not in the analysis.)

### **Cost per Service unit**

Debt was issued in 2006 and 2012 to pay for the expansion of Fire facilities to the current square footage of 59,197. As new development utilizes its proportionate share of the available capacity of the Fire facilities, the City plans to have new development pay for its share of the remaining debt. Thus, the cost recovery methodology is used to calculate the cost per service unit by land use. Growth share is based on projected persons and trips at the end of each bond term.

The City of Flagstaff has a fiscal year that runs July 1st through June 30th. The final payments for Fire facilities debt are due July 1st, or the start of the fiscal year. Therefore, the service units at the time of the last July payment are used to calculate the growth share by land use for each debt schedule. The final payment for the 2006 Series A debt is due July 1, 2023. TischlerBise projects the City of Flagstaff will add 8,084 persons and see an additional 9,864 nonresidential vehicle trips between July of 2013 and 2023, which equates to 9 percent of the 2023 projected combined population and nonresidential trips. The formula to calculate growth share for the 2006 Series A debt is (195,708 population and nonresidential vehicle trips in 2023 – 177,760 population and nonresidential vehicle trips in 2013) / 195,708 population and nonresidential vehicle trips in 2023 = 9 percent (*rounded*).

The cost per service unit for residential development is calculated as follows: ((9% growth share x \$10,901,463 remaining principal and interest) x 70% residential proportionate share)/8,084 net increase in persons = \$84.96 cost per capita. This calculation is repeated for each land use and each debt obligation. The results are a combined cost per service unit for Fire facilities of \$109.18 per capita, and \$38.95 per nonresidential vehicle trip.

**Figure 9: Cost Recovery – Fire Facilities**

Debt Obligation		Year of Final	Remaining Principal
Name	Year Issued	Payment	and Interest
Series A	2006	2023	\$10,901,463

Land Use	Growth Share [1]	Proportionate Share [2]	Increase 2013-2023 Service Units [3]	Cost per Service Unit
Residential	9%	70%	8,084 Population	\$84.96
Nonresidential		30%	9,864 Nonres Vehicle Trips	\$29.84

Debt Obligation		Year of Final	Remaining Principal
Name	Year Issued	Payment	and Interest
Series 2011	2012	2020	\$2,954,241

Land Use	Growth Share [1]	Proportionate Share [2]	Increase 2013-2020 Service Units [3]	Cost per Service Unit
Residential	7%	70%	5,977 Population	\$24.22
Nonresidential		30%	6,811 Nonres Vehicle Trips	\$9.11

Source: City of Flagstaff, Finance Department

[1] Share of projected population and nonresidential vehicle trips attributable to new growth

[2] TischlerBise. (2013). Functional Population

[3] TischlerBise. (2013). Development Fee Land Use Assumptions

Land Use	Combined Cost per Service Unit
Residential	<b>\$109.18</b>
Nonresidential	<b>\$38.95</b>

## Fire Fleet - Vehicles, Apparatus and Equipment

### Level of Service

The City plans to maintain the current LOS for Fire vehicles, apparatus, and equipment. The City currently has a 37-unit fleet of Fire vehicles, apparatus, and equipment. Based on the proportionate share analysis discussed above, residential development creates 70 percent of the demand for the Fire fleet, with nonresidential development accounting for 30 percent of the demand. The current LOS for residential development is calculated as follows:  $((37 \text{ units} \times 70\% \text{ proportionate share}) / (74,941 \text{ persons} / 1,000)) = 0.35 \text{ vehicles per 1,000 persons}$ . This calculation is repeated for nonresidential development resulting in a LOS of 0.11 vehicles per 1,000 nonresidential vehicle trips.

**Figure 10: Level of Service Fire Fleet - Vehicles, Apparatus, and Equipment**

Type	Description	Units in Service	Unit Price [1]	Replacement Cost
Vehicle	Ladder Apparatus	1	\$895,034	\$895,034
Vehicle	Rescue - Heavy	1	\$560,867	\$560,867
Vehicle	TYPE 1 Engine	1	\$448,478	\$448,478
Vehicle	Pumper Apparatus	4	\$394,641	\$1,578,564
Vehicle	Type 1 Pumper	1	\$359,539	\$359,539
Vehicle	TYPE 3 Wildlands	3	\$358,000	\$1,074,000
Vehicle	Water Tender	2	\$270,000	\$540,000
Vehicle	HAZMAT Truck	1	\$251,392	\$251,392
Vehicle	Rescue - Medic	1	\$244,247	\$244,247
Vehicle	TYPE 6 Engine	2	\$130,000	\$260,000
Vehicle	TYPE 6 Brush Truck	2	\$130,000	\$260,000
Vehicle	Rescue - Light	1	\$43,220	\$43,220
Vehicle	Light Duty Vehicle	9	\$26,139	\$235,253
Vehicle	Heavy Duty Vehicle	3	\$24,657	\$73,972
Vehicle	Trailers	2	\$4,586	\$9,171
Apparatus	Aerial Truck (quint ladder)	1	\$800,000	\$800,000
Apparatus	Pumper Truck	1	\$359,539	\$359,539
Equipment	SCBA Equipment	1	\$220,358	\$220,358
Total Fleet		37	\$221,990	\$8,213,633

Source: City of Flagstaff Fire Department

[1] Reflects the unit cost at year of purchase adjusted for inflation to Feb 2013 CPI

Land Use	Proportionate Share	2013 Service Units	Vehicles, Apparatus and Equipment Per 1,000 Service Units
Residential	70%	74,941 Population	0.35
Nonresidential	30%	102,819 Nonres Vehicle Trips	0.11

### **Cost per Service unit**

The cost per service unit for the incremental expansion of Fire vehicles is calculated in Figure 11. *The cost per service unit of Fire apparatus, and for Fire equipment are each calculated separately.* The City of Flagstaff debt financed the purchase of large Fire apparatus--an Aerial Truck and Pumper Truck--and Fire equipment for use in the entire service area. As new development utilizes its proportionate share of the available capacity of these apparatus and equipment units the City plans to have new development pay for its share of the remaining debt. Thus, the cost recovery methodology is used to calculate the cost per service unit for Fire apparatus, and for Fire equipment (explained below). The cost per service unit for Fire vehicles is calculated using an incremental expansion methodology.

### **Vehicles**

To calculate the cost per service unit for the 34 units of Fire vehicles, the replacement costs for the apparatus and equipment were subtracted from the total replacement cost of the Fire fleet for an adjusted value of \$6,833,736 for the Fire vehicles. The current cost of Fire vehicles per service unit for residential development is calculated as follows: ((34 vehicle units X 70% proportionate share) / (74,941 persons/1,000)) = 0.32 level of service X \$200,992 average cost per vehicle = \$63.83 cost per capita. This calculation is repeated for nonresidential development and results in a cost per service unit of \$19.94.

**Figure 11: Incremental Expansion – Fire Vehicles**

Type	Description	Units in Service	Unit Price [1]	Replacement Cost
Vehicle	Ladder Apparatus	1	\$895,034	\$895,034
Vehicle	Rescue - Heavy	1	\$560,867	\$560,867
Vehicle	TYPE 1 Engine	1	\$448,478	\$448,478
Vehicle	Pumper Apparatus	4	\$394,641	\$1,578,564
Vehicle	Type 1 Pumper	1	\$359,539	\$359,539
Vehicle	TYPE 3 Wildlands	3	\$358,000	\$1,074,000
Vehicle	Water Tender	2	\$270,000	\$540,000
Vehicle	HAZMAT Truck	1	\$251,392	\$251,392
Vehicle	Rescue - Medic	1	\$244,247	\$244,247
Vehicle	TYPE 6 Engine	2	\$130,000	\$260,000
Vehicle	TYPE 6 Brush Truck	2	\$130,000	\$260,000
Vehicle	Rescue - Light	1	\$43,220	\$43,220
Vehicle	Light Duty Vehicle	9	\$26,139	\$235,253
Vehicle	Heavy Duty Vehicle	3	\$24,657	\$73,972
Vehicle	Trailers	2	\$4,586	\$9,171
Apparatus	Aerial Truck (quint ladder)	1	\$800,000	\$800,000
Apparatus	Pumper Truck	1	\$359,539	\$359,539
Equipment	SCBA Equipment	1	\$220,358	\$220,358
	Total Fleet	37	\$221,990	\$8,213,633
	Total for Fire Vehicles	34	\$200,992	\$6,833,736

Source: City of Flagstaff Fire Department

[1] Reflects the unit cost at year of purchase adjusted for inflation to Feb 2013 CPI

Land Use	Proportionate Share	2013 Service Units	Vehicles Per 1,000 Service Units	Cost per Service Unit
Residential	70%	74,941 Population	0.32	<b>\$63.83</b>
Nonresidential	30%	102,819 Nonres Vehicle Trips	0.10	<b>\$19.94</b>



### Apparatus

The cost per service unit for the Fire apparatus (using the cost recovery methodology) is calculated using a growth share based on projected persons and nonresidential vehicle trips at the time of the last payment, July 1, 2019. Of the projected 188,870 combined population and nonresidential vehicle trips in 2019, 11,110 (6 percent) are attributable to new growth between 2013 and 2019. The formula to calculate growth share is as follows:  $(188,870 \text{ population and nonresidential vehicle trips in 2019} - 177,760 \text{ population and nonresidential vehicle trips in 2013}) / 188,870 \text{ population and nonresidential vehicle trips in 2019} = 6 \text{ percent (rounded)}$

The Fire apparatus cost per service unit for residential development is calculated as follows:  $((6\% \text{ growth share} \times \$289,122 \text{ remaining principal and interest}) \times 70\% \text{ residential proportionate share}) / 5,293 \text{ net increase in persons} = \$2.29 \text{ cost per capita}$ . This calculation is repeated for nonresidential development and results in a cost per service unit of \$0.89.

**Figure 12: Cost Recovery – Fire Apparatus**

Debt Obligation		Year of Final	Remaining Principal
Name	Year Issued	Payment	and Interest
Fire Vehicles	2010	2019	\$289,122

Land Use	Growth Share [1]	Proportionate Share [2]	Increase 2013-2019 Service Units [3]	Cost per Service Unit
Residential	6%	70%	5,293 Population	<b>\$2.29</b>
Nonresidential		30%	5,817 Nonres Vehicle Trips	<b>\$0.89</b>

Source: City of Flagstaff, Finance Department

[1] Share of projected population and nonresidential vehicle trips attributable to new growth

[2] TischlerBise. (2013). Functional Population

[3] TischlerBise. (2013). Development Fee Land Use Assumptions

### *Equipment*

The cost per service unit for the Fire equipment (using the cost recovery methodology) is calculated using a growth share based on projected persons and trips at the time of the last payment, July 1, 2023. Of the projected 195,708 combined population and nonresidential vehicle trips in 2023, 17,948 (9 percent) are attributable to new growth between 2013 and 2023. The formula to calculate growth share is as follows:  $(195,708 \text{ population and nonresidential vehicle trips in 2023} - 177,760 \text{ population and nonresidential vehicle trips in 2013}) / 195,708 \text{ population and nonresidential vehicle trips in 2023} = 9 \text{ percent (rounded)}$ .

The Fire equipment cost per service unit for residential development is calculated as follows:  $((9\% \text{ growth share} \times \$169,414 \text{ remaining principal and interest}) \times 70\% \text{ residential proportionate share}) / 8,084 \text{ net increase in persons} = \$1.32 \text{ cost per capita}$ . This calculation is repeated for nonresidential development and results in a cost per service unit of \$0.46.

**Figure 13: Cost Recovery – Fire Equipment**

Debt Obligation		Year of Final	Remaining Principal
Name	Year Issued	Payment	and Interest
SCBA Equipment	2006	2023	\$169,414

Land Use	Growth Share [1]	Proportionate Share [2]	Increase 2013-2023 Service Units [3]	Cost per Service Unit
Residential	9%	70%	8,084 Population	<b>\$1.32</b>
Nonresidential		30%	9,864 Nonres Vehicle Trips	<b>\$0.46</b>

Source: City of Flagstaff, Finance Department

[1] Share of projected population and nonresidential vehicle trips attributable to new growth

[2] TischlerBise. (2013). Functional Population

[3] TischlerBise. (2013). Development Fee Land Use Assumptions

### **Fire Communications System - Equipment and Infrastructure**

The City of Flagstaff maintains an inventory of portable and stationary communications equipment, and the communications infrastructure associated with the shared Public Safety Communications Command Center system. The shared center dispatches calls for the City of Flagstaff, Coconino County and surrounding public safety agencies, as well as providing communications infrastructure for the City of Flagstaff Department of Public Works. Each agency places differing levels of demand on the system. As discussed above, annual calls for service were used to calculate the share of the components allocated to the City of Flagstaff Fire Department; and functional population factors were used to calculate the demands placed on the system by residential and nonresidential land uses in the service area.

### **Level of Service**

There are two types of communications equipment associated with the shared system; first is the portable equipment assigned to staff and vehicles, and second is the computer equipment necessary to dispatch and track calls for service. Communications infrastructure includes the telecommunications towers for the wireless network.

Of the equipment and infrastructure that constitute the City of Flagstaff shared system, the City of Flagstaff Fire Department makes use of 51 components. Portable components used by the Fire Department are allocated to the Fire Department at 100 percent. Dispatch communications components like the computer system's server are allocated based on demand on the system generated by the Fire Department (14%), as determined by calls for service (see the Proportionate Share section above).

Demand placed on the *communications infrastructure* by the Fire Department was determined by the City of Flagstaff. According to the City, the Fire Department generates 18.41 percent of the total demand for the *communications infrastructure*. The remaining demand on the *communications infrastructure* is generated by the Flagstaff Police and Public Works Departments as well as from other jurisdictions.

As shown in Figure 14, these proportionate share factors are used to adjust the count of components to reflect only the share of the total 51 components used by the Fire Department. The Fire Department uses 100 percent of the 6 *portable communications* components, 14 percent of the 44 *dispatch communications* components, and 18.41 percent of the *communications infrastructure*. These shares equate to 12.34 units of communications equipment and infrastructure used by the Fire Department.

The communications equipment and infrastructure LOS for residential development is calculated as follows:  $(12.34 \text{ pieces of equipment} \times 70\% \text{ proportionate share}) / (74,941 \text{ person} / 1,000) = 0.12 \text{ pieces of equipment per } 1,000 \text{ persons}$ . This calculation is repeated for nonresidential development resulting in a LOS of 0.04 pieces of equipment per 1,000 nonresidential vehicle trips.

**Figure 14: Level of Service Fire Communications System - Equipment and Infrastructure**

Communications System Equipment and Infrastructure	Units in Service	Fire Dept. Share of Units [1]	Units Used by Fire Dept.	Average Cost per Unit	Replacement Cost [2]
Equipment - Portable Communications	6	100.00%	6.00	\$5,733	\$34,400
Equipment - Dispatch Communications	44	14.00%	6.16	\$5,366	\$33,055
Infrastructure - Tower and Network [3]	1	18.41%	0.18	\$3,952,287	\$727,616
<b>TOTAL</b>	51		12.34	\$82,800	\$795,071

Source: City of Flagstaff Police Department

[1] City of Flagstaff Public Safety Communications Command Center

[2] Replacement cost is the Fire Department's share of Total Units multiplied by cost per unit.

[3] City of Flagstaff. (2012). Communications Infrastructure proportionate share

Land Use	Proportionate Share	2013 Service Units	Equipment & Infrastructure per 1,000 Service Units
Residential	70%	74,941 Population	0.12
Nonresidential	30%	102,819 Nonres Vehicle Trips	0.04

### **Cost per Service unit**

The costs per service unit for the Fire *communications equipment* and *communications infrastructure* are calculated separately.

- **Communications Infrastructure:** The City of Flagstaff debt financed the expansion of the public safety *communications infrastructure* in 2011. As new development utilizes its proportionate share of the available capacity of the expanded system the City plans to have new development pay for its share of the remaining debt. Thus, the cost recovery methodology is used to calculate the cost per service unit for Fire *communications infrastructure* (shown in Figure 16).
- **Communications Equipment:** The cost per service unit for Fire *communications equipment* is calculated using an incremental expansion methodology.

### **Communications Equipment**

To calculate the cost per service unit for Fire communications equipment the replacement costs are calculated for each component by multiplying the per unit cost by the share of units allocated to the Fire Department. Next, the replacement value for just the *communications equipment* was calculated resulting in a value of \$67,455 for the Fire *communications equipment* alone. (*Communications infrastructure* is calculated and shown separately). The current cost of Fire *communications equipment* per service unit for residential development is calculated as follows: (\$67,455 replacement value X 70% proportionate share)/74,941 persons = \$0.63 per capita. This calculation is repeated for nonresidential development and results in a cost per service unit of \$0.20.

**Figure 15: Incremental Expansion – Communications Equipment**

Communications System Equipment and Infrastructure	Units in Service	Fire Dept. Share of Units [1]	Units Used by Fire Dept.	Average Cost per Unit	Replacement Cost [2]
Equipment - Portable Communications	6	100.00%	6.00	\$5,733	\$34,400
Equipment - Dispatch Communications	44	14.00%	6.16	\$5,366	\$33,055
Infrastructure - Tower and Network [3]	1	18.41%	0.18	\$3,952,287	\$727,616
<b>TOTAL</b>	<b>51</b>		<b>12.34</b>	<b>\$82,800</b>	<b>\$795,071</b>
<b>Total for Communications Equipment</b>	<b>50</b>		<b>12.16</b>	<b>\$5,547</b>	<b>\$67,455</b>

Source: City of Flagstaff Police Department

[1] City of Flagstaff Public Safety Communications Command Center

[2] Replacement cost is the Fire Department's share of Total Units multiplied by cost per unit.

[3] City of Flagstaff. (2012). Communications Infrastructure proportionate share

Land Use	Proportionate Share	2013 Service Units	Equipment per 1,000 Service Units	Cost per Service Unit
Residential	70%	74,941 Population	0.11	<b>\$0.63</b>
Nonresidential	30%	102,819 Nonres Vehicle Trips	0.04	<b>\$0.20</b>

### *Communications Infrastructure*

Debt was issued in 2011 to pay for the expansion of the Public Safety Communications Command Center infrastructure. As new development utilizes its proportionate share of the available capacity of the *communications infrastructure*, the City plans to have new development pay for its share of the remaining debt. Thus, the cost recovery methodology is used, and the growth share is based on projected persons and trips at the end of the bond term.

The City's Fire, Police, and Public Works Departments use the *communications infrastructure*, along with surrounding public safety agencies. According to the City of Flagstaff, the Fire Department generates 18.41 percent of total demand on the infrastructure.

The City of Flagstaff has a fiscal year that runs July 1st through June 30th. The final payment for the *communications infrastructure* debt is due July 1st, or the start of the fiscal year. Therefore, the service units at the time of the last July payment are used to calculate the growth share by land use. TischlerBise projects the City of Flagstaff will add 6,670 persons and see an additional 7,811 nonresidential vehicle trips between July of 2013 and 2021, which equates to 8 percent of the 2021 projected combined population and nonresidential trips. The formula to calculate growth share is as follows:  $(192,241 \text{ population and nonresidential vehicle trips in 2021} - 177,760 \text{ population and nonresidential vehicle trips in 2013}) / 192,241 \text{ population and nonresidential vehicle trips in 2021} = 8 \text{ percent (rounded)}$ .

The cost per service unit for residential development is calculated as follows:  $(\$3,658,398 \text{ remaining principal and interest} \times 18.41\% \text{ Fire proportionate share} \times 8\% \text{ growth share} \times 70\% \text{ residential proportionate share}) / 6,670 \text{ net increase in persons} = \$5.65 \text{ cost per capita}$ . This calculation is repeated for nonresidential development and results in a cost per nonresidential vehicle trip of \$2.07.

**Figure 16: Cost Recovery – Fire Communications Infrastructure**

Debt Obligation		Year of Final Payment	Remaining Principal and Interest
Name	Year Issued		
Communications Equipment	2011	2021	\$3,658,398

Land Use	Portion Attributable to Fire Dept. [1]	Growth Share [2]	Proportionate Share [3]	Increase 2013-2021 Service Units [4]	Cost per Service Unit
Residential	18.41%	8%	70%	6,670 Population	<b>\$5.65</b>
Nonresidential			30%	7,811 Nonres Vehicle Trips	<b>\$2.07</b>

Source: City of Flagstaff, Finance Department

[1] City of Flagstaff Public Safety Communications Command Center

[2] Share of projected population and nonresidential vehicle trips attributable to new growth

[3] TischlerBise. (2013). Functional Population

[4] TischlerBise. (2013). Development Fee Land Use Assumptions

### **Excluded Costs**

Development fees in Flagstaff exclude costs to upgrade, update, improve, expand, correct or replace those necessary public services to meet existing needs and usage and stricter safety, efficiency, environmental or regulatory standards. The City of Flagstaff Capital Improvement Plan addresses the cost of these excluded items.

### **Current Use and Available Capacity**

According to City staff, Fire facilities, apparatus, equipment, and communications infrastructure have surplus capacity to serve growth; therefore, a cost recovery methodology was used to calculate the growth share of future principal and interest payments. Fire vehicles and communications equipment are fully utilized; therefore, there is no available capacity for future development.

## RATIO OF SERVICE UNIT TO DEVELOPMENT UNIT

ARS 9-463.05(E)(4) requires:

*“A table establishing the specific level or quantity of use, consumption, generation or discharge of a service unit for each category of necessary public services or facility expansions and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial and industrial.”*

Shown in the table below are the ratios of a service unit (i.e., persons and nonresidential vehicle trips) to various types of land uses for residential and nonresidential development. The residential development table displays the *Persons per Household* factors for single family and multifamily homes.

For nonresidential development, average daily vehicle trips are used for the Fire Facilities IIP as a measure of demand by land use. TischlerBise recommends using nonresidential vehicle trips as the best demand indicator for Fire Facilities. Trip generation rates are used for nonresidential development because vehicle trips are highest for commercial developments, such as shopping centers, and lowest for industrial/flex development. Office and institutional trip rates fall between the other two categories. Because the Fire Department responds to emergency medical calls for service this ranking of trip rates is consistent with the relative demand for Fire services from nonresidential development.

Other possible nonresidential demand indicators, such as employment or floor area, would not accurately reflect the demand for service. For example, if employees per thousand square feet were used as the demand indicator, Fire Facilities development fees would be too high for office and institutional development because offices typically have more employees per 1,000 square feet than retail uses. If floor area were used as the demand indicator Fire Facilities development fees would be too high for industrial development.

**Figure 17: Fire Facilities Ratio of Service Unit to Land Use**

Residential Development	
Land Use	Persons per Household [1]
Single Unit	2.75
2+ Unit	2.57

[1] TischlerBise. (2013).

Development Fee Land Use Assumptions

Nonresidential Development			
Land Use	Weekday Trip	Trip	Vehicle Trips (a X b)
	Ends [2] (a)	Adjustment [3] (b)	
Commercial KSF	42.70	33%	14.09
Office/Institutional KSF	11.03	50%	5.52
Industrial/Flex KSF	3.82	50%	1.91

[2] Institute of Transportation Engineers. (2012). Trip Generation Manual 9th Edition

[3] Average adjustment used to count every trip only once, at the point of final destination.

Vehicle trips are estimated using average weekday vehicle trips ends from the reference book Trip Generation published by the Institute of Transportation Engineers (ITE 9th Edition 2012). A vehicle trip end represents a vehicle either entering or exiting a development (as if a traffic counter were placed across a driveway).

Trip generation rates are adjusted to avoid double counting each trip at both the origin and destination points. Therefore, the basic trip adjustment factor of 50 percent is applied to the office/institutional, and industrial/flex categories. The commercial/retail category has a trip factor of less than 50 percent because this type of development attracts vehicles as they pass-by on arterial and collector roads. For example, when someone stops at a convenience store on the way home from work, the convenience store is not the primary destination. For the average shopping center, the ITE data indicates that 34 percent of the vehicles that enter are passing by on their way to some other primary destination. The remaining 66 percent of attraction trips have the commercial site as their primary destination. Because attraction trips are half of all trips, the trip adjustment factor of 66 percent is multiplied by 50 percent to calculate a trip adjustment factor for commercial land use of 33 percent.

#### PROJECTED SERVICE UNITS AND INFRASTRUCTURE DEMAND

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ARS 9-463.05(E)(3) requires:

*“A description of all or the parts of the necessary public services or facility expansions and their costs necessitated by and attributable to development in the service area based on the approved land use assumptions, including a forecast of the costs of infrastructure, improvements, real property, financing, engineering and architectural services, which shall be prepared by qualified professionals licensed in this state, as applicable.”*

ARS 9-463.05(E)(5) requires:

*“The total number of projected service units necessitated by and attributable to new development in the service area based on the approved land use assumptions and calculated pursuant to generally accepted engineering and planning criteria.”*

ARS 9-463.05(E)(6) requires:

*“The projected demand for necessary public services or facility expansions required by new service units for a period not to exceed ten years.”*



## Fire Facilities

The development fee enabling legislation requires all development fees to be reevaluated every five years. For the five-year period of this Fire Facilities IIP and Development Fee Study, the City of Flagstaff will collect a Fire facilities fee to pay down the debt incurred to expand the Fire facilities with the capacity to absorb growth. Over the course of the next five years, the City of Flagstaff is projected to add an additional 4,617 persons, and see an additional 4,818 nonresidential vehicle trips. As shown in Figure 18, projected development between 2013 and 2018 will generate demand for the remaining Fire facilities capacity.

**Figure 18: Projected Demand for Fire Facilities**

						Existing Fire Facilities = 59,197 SF	
		Residential		Nonresidential		Demand for	Remaining
		Population	2018 LOS	Vehicle Trips	2018 LOS	Facility SF	Capacity
Base Yr	2013	74,941	0.52	102,819	0.16	55,997	3,200
1	2014	76,931	0.52	103,771	0.16	57,191	2,006
2	2015	77,576	0.52	104,726	0.16	57,684	1,513
3	2016	78,228	0.52	105,688	0.16	58,183	1,014
4	2017	78,889	0.52	106,662	0.16	58,688	509
5	2018	79,558	0.52	107,637	0.16	59,197	0

## Fire Apparatus

The development fee enabling legislation requires all development fees to be reevaluated every five years. For the five-year period of this Fire Facilities IIP and Development Fee Study, the City of Flagstaff will collect a Fire apparatus fee to pay down the debt incurred to purchase the large apparatus. Over the remaining period of the debt obligation, the City of Flagstaff is projected to add an additional 5,293 persons, and see an additional 5,817 nonresidential vehicle trips. As shown in Figure 19, projected development between 2013 and 2019 will generate demand for the remaining capacity of the Fire apparatus.

**Figure 19: Projected Demand for Fire Apparatus**

						Existing Fire Apparatus = 2 Units	
		Residential		Nonresidential		Demand for	Remaining
		Population	2019 LOS	Vehicle Trips	2019 LOS	Apparatus	Capacity
Base Yr	2013	74,941	0.00002	102,819	0.00001	1.88	0.12
1	2014	76,931	0.00002	103,771	0.00001	1.92	0.08
2	2015	77,576	0.00002	104,726	0.00001	1.93	0.07
3	2016	78,228	0.00002	105,688	0.00001	1.95	0.05
4	2017	78,889	0.00002	106,662	0.00001	1.97	0.03
5	2018	79,558	0.00002	107,637	0.00001	1.98	0.02
6	2019	80,234	0.00002	108,636	0.00001	2.00	0.00

## Fire Equipment

The development fee enabling legislation requires all development fees to be reevaluated every five years. For the five-year period of this Fire Facilities IIP and Development Fee Study, the City of Flagstaff will collect a Fire equipment fee to pay down the debt incurred to purchase the Fire equipment. Over the remaining period of the debt obligation, the City of Flagstaff is projected to add an additional 8,084 persons, and see an additional 9,864 nonresidential vehicle trips. As shown in Figure 20, projected development between 2013 and 2023 will generate demand for the remaining capacity of the Fire equipment.

Figure 20: Projected Demand for Fire Equipment

		Existing Fire Equipment = 1 Unit					
		Residential		Nonresidential		Demand for Equipment	Remaining Capacity
		Population	2023 LOS	Vehicle Trips	2023 LOS		
Base Yr	2013	74,941	0.00001	102,819	0.000003	0.91	0.09
1	2014	76,931	0.00001	103,771	0.000003	0.92	0.08
2	2015	77,576	0.00001	104,726	0.000003	0.93	0.07
3	2016	78,228	0.00001	105,688	0.000003	0.94	0.06
4	2017	78,889	0.00001	106,662	0.000003	0.95	0.05
5	2018	79,558	0.00001	107,637	0.000003	0.96	0.04
6	2019	80,234	0.00001	108,636	0.000003	0.97	0.03
7	2020	80,918	0.00001	109,630	0.000003	0.97	0.03
8	2021	81,611	0.00001	110,630	0.000003	0.98	0.02
9	2022	82,314	0.00001	111,652	0.000003	0.99	0.01
10	2023	83,025	0.00001	112,683	0.000003	1.00	0.00

## Fire Communications Infrastructure

The development fee enabling legislation requires all development fees to be reevaluated every five years. For the five-year period of this Fire Facilities IIP and Development Fee Study, the City of Flagstaff will collect a Fire *communications infrastructure* fee to pay down the debt incurred to improve the network and add a telecommunications tower, to ensure the shared Public Safety Communications Command Center would have sufficient capacity to serve growth. Over the remaining period of the debt obligation, the City of Flagstaff is projected to add an additional 6,670 persons, and see an additional 7,811 nonresidential vehicle trips. As shown in Figure 21, projected development between 2013 and 2021 will generate demand for the remaining portion of *communications infrastructure* that is attributable to the Flagstaff Fire Department.

Figure 21: Projected Demand for Fire Communications Infrastructure

Existing Fire Communications Infrastructure = 18.41% of 1 System Unit							
		Residential		Nonresidential		Demand for Remaining	
		Service	2021 LOS	Service	2021 LOS		
		Units	per 1,000	Units	per 1,000	Units	Capacity
Base Yr		Population	Service Units	Vehicle Trips	Service Units		
2013		74,941	0.002	102,819	0.0005	0.17	0.014
1	2014	76,931	0.002	103,771	0.0005	0.17	0.011
2	2015	77,576	0.002	104,726	0.0005	0.17	0.009
3	2016	78,228	0.002	105,688	0.0005	0.18	0.008
4	2017	78,889	0.002	106,662	0.0005	0.18	0.006
5	2018	79,558	0.002	107,637	0.0005	0.18	0.005
6	2019	80,234	0.002	108,636	0.0005	0.18	0.003
7	2020	80,918	0.002	109,630	0.0005	0.18	0.002
8	2021	81,611	0.002	110,630	0.0005	0.18	0.000

## Fire Vehicles and Communications Equipment

As shown in Figure 22 TischlerBise projects an additional 8,084 persons and 9,864 trips over the next ten years. The City of Flagstaff Fire Department expects to expand the fleet of Fire vehicles incrementally to serve growth at the current level of service, which equates to a demand for four new vehicles in the next ten years. Incremental investments in Communications equipment will be made by the Fire Department to maintain the current level of service, which equates to a demand for one new unit in the next ten years. The incremental demand to serve growth is shown in Figure 22 below.

The ten-year totals of the projected demand for the Fire vehicles, and the Fire Department's share of the communications equipment is multiplied by the respective costs per average unit to determine the total cost to incrementally expand capacity for each category to accommodate the projected demand over the next ten years. For example, the projected development over the next ten years requires adding four vehicles. This is multiplied by the average cost of \$200,992 per average vehicle to calculate a total ten-year cost of \$803,968. This calculation is repeated for each category. See Figure 22 for additional details.

**Figure 22: Projected Demand for Fire Vehicles and Communications Equipment**

		Service Units		Vehicles	Comm. Equip.
				per 1,000 Service Units	
Res LOS		Persons		0.32	0.11
Nonres LOS		Nonresidential Vehicle Trips		0.10	0.04
		Average Cost per Unit		<b>\$200,992</b>	<b>\$5,547</b>

		Projected Service Units		Projected Demand (Rounded)	
		Persons	Nonres Trips	Vehicles (units)	Comm. Equip. (units)
Base	2013	74,941	102,819	34	12
1	2014	76,931	103,771	35	12
2	2015	77,576	104,726	35	13
3	2016	78,228	105,688	35	13
4	2017	78,889	106,662	36	13
5	2018	79,558	107,637	36	13
6	2019	80,234	108,636	36	13
7	2020	80,918	109,630	37	13
8	2021	81,611	110,630	37	13
9	2022	82,314	111,652	37	13
10	2023	83,025	112,683	38	13
<b>Ten-Year Total</b>		<b>8,084</b>	<b>9,864</b>	<b>4</b>	<b>1</b>
Cost of Fire Vehicles				\$803,968	
Cost of Fire Communications Equipment				\$5,547	

## Fire Facilities Improvements Plan

Lastly, the 10-year plan for necessary Fire Facilities improvements and expansions identified by City of Flagstaff are listed in Figure 23. The figure below reflects new purchases and does not include debt service costs associated with Fire facilities, apparatus, equipment, and communications infrastructure.

Figure 23: Necessary Fire Facilities Expansions

Improvements	10-Year Plan
Projects	
Incremental Expansion of Vehicles	\$803,968
Incremental Expansion of Communications Equipment	\$5,547
TOTAL	\$809,515

## MAXIMUM SUPPORTABLE FIRE FACILITIES DEVELOPMENT FEES

The proposed development fees by land use for Fire Facilities are shown in Figure 24 on the following page.

### Fire Facilities IIP and Development Fee Study

Included in the Fire Facilities *per service unit cost* is the cost to prepare the Fire Facilities IIP and Development Fee Study. See **Appendix A – Cost of Professional Services** for the detailed calculations.

### Revenue Credit

Included in the maximum supportable development fees is a *Revenue Credit* of 0 percent. The unadjusted Fire Facilities development fees per development unit would not generate more revenue over the next ten years, based on the approved [Land Use Assumptions](#), than the identified growth-related necessary expenditures of \$2,096,648 (necessary facilities expansion plus the IIP and Development Fee Study cost). To ensure that no more fee revenue is collected than the City plans to spend, the potential gross cost per service unit is reduced by the revenue credit to calculate the net capital cost per service unit. Based on the gross capital costs per service unit, the projected development fee revenue would equal \$1,513,051. See Figure 24 and Figure 25 for additional detail. Therefore, no revenue credit adjustment is necessary for the Fire Facilities development fees.

**Figure 24: Maximum Supportable Fire Facilities Development Fees**

**Fire Level Of Service and Capital Costs**

	<u>Per Person</u>
Fire Facilities - Debt Service	\$109.18
Fire Vehicles	\$63.83
Fire Apparatus - Debt Service	\$2.29
Fire Equipment - Debt Service	\$1.32
Fire Communications Equipment	\$0.63
Fire Communications Infrastructure - Debt Service	\$5.65
IIP and Development Fee Study	\$1.93
<b>GROSS CAPITAL COST</b>	<b>\$184.83</b>

Revenue Credit	0%	(\$0.00)
<b>NET CAPITAL COST</b>		<b>\$184.83</b>

**Fire Residential Development Fee Schedule**

			Development Fee per Housing Unit		
Unit Type	Number of Bedrooms	Persons per Household [1]	Proposed Fee	Current Fee [2]	Increase (Decrease)
2+ Units	All Sizes	2.57	\$474	\$352	\$122
Single Unit	0-3	2.62	\$484	\$444	\$40
Single Unit	4+	3.29	\$607	\$444	\$163
Single Unit	Avg	2.75	\$508	\$444	\$64

[1] TischlerBise. (2013). Development Fee Land Use Assumptions

[2] TischlerBise. (28Nov11). January 1, 2012 Interim Development Fees

**Fire Level Of Service and Capital Costs**

	<u>Per Trip</u>
Fire Facilities - Debt Service	\$38.95
Fire Vehicles	\$19.94
Fire Apparatus - Debt Service	\$0.89
Fire Equipment - Debt Service	\$0.46
Fire Communications Equipment	\$0.20
Fire Communications Infrastructure - Debt Service	\$2.07
IIP and Development Fee Study	\$0.79
<b>GROSS CAPITAL COST</b>	<b>\$63.30</b>

Revenue Credit	0%	(\$0.00)
<b>NET CAPITAL COST</b>		<b>\$63.30</b>

**Fire Nonresidential Development Fee Schedule**

			Development Fee per Square Foot of Floor Area		
Nonresidential Land Use	Weekday Vehicle Trip Ends	Trip Rate Adj. Factors	Proposed Fee	Current Fee [3]	Increase (Decrease)
	(Per 1,000 sq. ft.)		(Per Square Foot of Floor Area)		
Commercial	42.70	33%	\$0.89	\$0.81	\$0.08
Office/Institutional	11.03	50%	\$0.34	\$0.28	\$0.06
Industrial/Flex	3.82	50%	\$0.12	\$0.07	\$0.05

[3] TischlerBise. (28Nov11). January 1, 2012 Interim Development Fees

The 2012 nonresidential fees were by size thresholds, averages are shown here.

## FORECAST OF REVENUES FOR FIRE FACILITIES

**Appendix B – Forecast of Revenues Other Than Development Fees** contains the forecast of revenues required by Arizona’s enabling legislation.

### Fire Facilities Cash Flow

Revenue projections shown below assume implementation of the maximum supportable Fire Facilities development fees and that development over the next ten years is consistent with the approved [Land Use Assumptions](#) described in Appendix C. To the extent the rate of development either accelerates or slows down, there will be a corresponding change in the development fee revenue. The deficit shown in the revenue projection below represents the portion of necessary investments that will not be recouped through Fire Facilities development fee revenue.

**Figure 25: Projected Revenue for Fire Facilities**

#### Ten-Year Growth-Related Costs for Fire Facilities

Fire Facilities - Debt Service*	\$ 1,187,929
Fire Vehicles	\$ 803,968
Fire Apparatus - Debt Service*	\$ 17,347
Fire Equipment - Debt Service*	\$ 15,247
Fire Communications Equipment	\$ 5,547
Fire Communications Infrastructure - Debt Service*	\$ 53,881
IIP and Development Fee Study	\$ 12,729
<b>TOTAL</b>	<b>\$ 2,096,648</b>

[1] Debt Service costs shown above represent only the growth share of each debt obligation.

		per Housing Unit		Per Square Foot of Floor Area		
		Single Unit	2+ Units	Commercial	Office	Industrial
		\$508	\$474	\$0.89	\$0.34	\$0.12
Year		Housing Units Added		Square Feet Added (1,000)		
Base	2013	16,833	10,324	4,195	6,084	5,316
Year 1	2014	16,942	10,391	4,234	6,139	5,370
Year 2	2015	17,052	10,458	4,273	6,193	5,424
Year 3	2016	17,162	10,526	4,313	6,248	5,478
Year 4	2017	17,273	10,594	4,353	6,303	5,532
Year 5	2018	17,385	10,662	4,393	6,359	5,588
Year 6	2019	17,497	10,731	4,434	6,416	5,643
Year 7	2020	17,610	10,800	4,474	6,473	5,700
Year 8	2021	17,724	10,870	4,515	6,530	5,757
Year 9	2022	17,839	10,940	4,557	6,588	5,815
Year 10	2023	17,954	11,011	4,599	6,648	5,873
Ten-Yr Increase		1,121	687	404	564	557
Projected Fees =>		\$569,468	\$325,638	\$359,560	\$191,598	\$66,787
<b>Total Projected Revenues</b>		<b>\$1,513,051</b>				
Cumulative Net Surplus/(Deficit)		<b>(\$583,597)</b>				

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## POLICE FACILITIES INFRASTRUCTURE IMPROVEMENTS PLAN

### OVERVIEW

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ARS 9-463.05 (T)(7)(f) defines the facilities and assets, which can be included in the Police Facilities IIP:

*“Fire and police facilities, including all appurtenances, equipment and vehicles. Fire and police facilities do not include a facility or portion of a facility that is used to replace services that were once provided elsewhere in the municipality, vehicles and equipment used to provide administrative services, helicopters or airplanes or a facility that is used for training police and firefighters from more than one station or substation.”*

The Police Facilities IIP includes components for the Police facilities, vehicles, the Police Department’s proportionate share of the City of Flagstaff public safety communications command center system (equipment and infrastructure), and the cost of preparing the Police Facilities IIP and Development Fee Study. Cost recovery is used to calculate the IIP for Police communications infrastructure. Incremental expansion is used to calculate the Police facilities, vehicles, and communications equipment elements of the Police Facilities IIP and Development Fees.

### SERVICE AREA

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The City of Flagstaff Police Department provides service to the entire city. The service area for the Police Facilities IIP and development fees is Citywide.

### PROPORTIONATE SHARE

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ARS 9-463.05 (B)(3) states that the development fee shall not exceed a proportionate share of the cost of necessary public services needed to accommodate new development. The Police IIP uses a functional population concept to allocate the demand between residential and nonresidential development. The demand for Police facilities and assets in the City of Flagstaff is measured by annual calls for service. Calls for service data from 2012, in combination with functional population factors (described below), were used to determine the relative demand for service from residential and nonresidential development.



## Functional Population

TischlerBise recommends functional population to allocate the cost of Police Facilities to residential and nonresidential development. Functional population has a long history in the professional literature. Originally called activity analysis by Stuart Chapin in 1965, and incorporated into development impact fee methodology by James Nicholas in the mid-1980s, functional population has been used to equitably spread infrastructure costs between residential and nonresidential sectors. TischlerBise has refined the functional population concept by incorporating what the U.S. Census Bureau calls “daytime population.” Using jurisdiction-specific data on commuting patterns, it is now possible to account for where people live and work (i.e., spend their daily hours). As shown below, residents that do not work are assigned 20 hours per day to residential development and four hours per day to nonresidential development (annualized averages). Residents that work in Flagstaff are assigned 14 hours to residential development and 10 hours to nonresidential development. Residents that work outside Flagstaff are assigned 14 hours to residential development. Inflow commuters are assigned 10 hours to nonresidential development. Based on 2010 decennial census and Longitudinal Employer-Household Dynamics data, both provided by the U.S. Census Bureau, the cost allocation for residential development is 70 percent, while nonresidential development accounts for 30 percent of the demand for Police Facilities.

Figure 26: City of Flagstaff Functional Population

	<u>Demand Units in 2010</u>		<u>Demand Hours/Day</u>	<u>Person Hours</u>
<b>Residential</b>				
Population	65,870			
Residents Not Working	36,843		20	736,860
Resident Workers	29,027			
Worked in City	17,161		14	240,254
Worked Outside City	11,866		14	166,124
Residential Subtotal				1,143,238 <b>70%</b>
<b>Nonresidential</b>				
Non-working Residents	36,843		4	147,372
Jobs Located in City	34,744			
Residents Working in City	17,161		10	171,610
Non-Resident Workers (inflow commuters)	17,583		10	175,830
Nonresidential Subtotal				494,812 <b>30%</b>
TOTAL				1,638,050

Source: U.S. Census Bureau, 2010 Decennial Census; U.S. Census Bureau, OnTheMap 6.1.1 Application and LEHD Origin-Destination Employment Statistics

## Service Units

Different demand indicators for residential and nonresidential development are used to calculate the Police Facilities IIP. Residential development fees are calculated based on resident population, and then converted to an appropriate amount by type of housing unit based on persons per household.

For nonresidential development fees, TischlerBise recommends using nonresidential vehicle trips as the demand indicator for Police Facilities. Trip generation rates are used for nonresidential development because vehicle trips are highest for commercial developments, such as shopping centers, and lowest for industrial/flex development. Office and institutional trip rates fall between the other two categories. This ranking of trip rates is consistent with the relative demand for Police services from nonresidential development.

Other possible nonresidential demand indicators, such as employment or floor area, would not accurately reflect the demand for service. For example, if employees per thousand square feet were used as the demand indicator, Police development fees would be too high for office and institutional development because offices typically have more employees per 1,000 square feet than retail uses. If floor area were used as the demand indicator Police development fees would be too high for industrial development. More information regarding the calculation of nonresidential vehicle trips can be found in Figure 34: Police Facilities Ratio of Service Unit to Land Use.

## Police Department Calls for Service

The functional population allocation to residential and nonresidential development is applied to the 2012 calls for service data provided by the City of Flagstaff Police Department to derive calls for service per service unit (i.e. population for residential development, and vehicle trips for nonresidential development). Of the Police Department's 43,304 calls for service, 70 percent or 30,313 represent demand from residential development, and 30 percent or 12,991 represent demand from nonresidential development.

**Figure 27: Police Proportionate Share**

	<b>2012</b>
<b>Total Calls for Service</b>	<b>43,304</b>

Source: City of Flagstaff, Police Department

Land Use	Proportionate Share	Estimated Calls for Service (CFS)	2013 Service Units	CFS per Service Unit
Residential	70%	30,313	74,941 Population	0.40
Nonresidential	30%	12,991	102,819 Nonres Vehicle Trips	0.13

## Public Safety Communications Command Center Calls for Service

City of Flagstaff shares a public safety command center and associated infrastructure with Coconino County and surrounding public safety agencies. The shared command center received 71,475 calls for service from all jurisdictions in calendar year 2012. Calls for service for the City of Flagstaff Police Department accounted for 61 percent of the total public safety calls for service received. This proportionate share factor will be used to calculate the demands placed on the *communications equipment* (e.g., portable communication radios, and stationary computer components) by the Police Department.

Proportionate share factors for demands placed on the *communications infrastructure* (e.g., telecommunications towers for wireless network) by the Police Department were provided by the City of Flagstaff Police Department based on use by the City's Fire, Police, and Public Works departments, and other jurisdictions. Proportionate share factors for *communications infrastructure* differ from *communications equipment* due to additional impact from Public Works. Proportionate share factors are shown below.

**Figure 28: Public Safety Communications Command Center Proportionate Share³**

Public Safety Agency	Calls for Service [1]	Proportionate Share for Communications	
		Equipment [1]	Infrastructure [2]
Flagstaff Police	43,304	61%	27%
Flagstaff Fire	10,178	14%	18%
Other Jurisdictions	17,993	25%	26%
Flagstaff Public Works	Not Applicable	0%	29%
<b>Total Calls Received in 2012</b>	71,475	100%	100%

[1] Proportionate share factors for Communications Equipment are based on total calls for service dispatched by the Public Safety Communications Command Center.

[2] Proportionate share factors (shown here as rounded figures) for Communications Infrastructure were provided by the City of Flagstaff Police Department. The City of Flagstaff Department of Public Works places demands on the communications infrastructure but not on the Public Safety Communications Command Center.

³ The proportionate share factors by department for the *Communications Infrastructure* are shown as rounded figures. However, the analysis itself uses figures carried to their ultimate decimal places; therefore the sums and products generated in the analysis may not equal the sum or product if the reader replicates the calculation with the factors shown here (due to the rounding of figures shown, not in the analysis.)

## IIP FOR POLICE FACILITIES

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For each necessary public service that is the subject of a development fee, ARS 9-463.05(E) requires that the IIP include seven elements. The sections below detail each of these elements. (A forecast of new revenues generated by sources other than development fees can be found in **Appendix B – Forecast of Revenues Other Than Development Fees.**)

### Analysis of Capacity, Usage, and Costs of Existing Public Services

ARS 9-463.05(E)(1) requires:

*“A description of the existing necessary public services in the service area and the costs to upgrade, update, improve, expand, correct or replace those necessary public services to meet existing needs and usage and stricter safety, efficiency, environmental or regulatory standards, which shall be prepared by qualified professionals licensed in this state, as applicable.”*

ARS 9-463.05(E)(2) requires:

*“An analysis of the total capacity, the level of current usage and commitments for usage of capacity of the existing necessary public services, which shall be prepared by qualified professionals licensed in this state, as applicable.”*

## Police Facilities

### Level of Service and Cost per Service unit

The City plans to maintain the level of service (LOS) for Police facilities that it provides to existing development. Thus, the incremental expansion methodology is used to calculate this component of the Police IIP. The City currently has 46,672 square feet of qualified Police facilities. Based on the proportionate share analysis discussed above, residential development creates 70 percent of the demand for Police facilities, with nonresidential development accounting for 30 percent of the demand. The current LOS for residential development is calculated as follows: (46,672 square feet X 70% residential proportionate share)/74,941 persons = 0.44 square feet per capita. This calculation is repeated for nonresidential development resulting in a LOS of 0.14 square feet per nonresidential vehicle trip.

The cost per service unit is the product of square feet per service unit and the average cost per square foot. The cost per service unit for residential development is calculated as follows: 0.44 square feet per capita X \$239 average cost per square foot = \$104.19 cost per person.⁴ This calculation is repeated for nonresidential development resulting in a cost of \$32.55 per nonresidential vehicle trip.

**Figure 29: Incremental Expansion – Police Facilities**

Facility	Total Square Feet	Cost per Square Foot	Replacement Cost [2]
LEAF Facility (City Police share) [1]	32,148	\$252	\$8,104,898
Police Share of Coconino Facility	8,000	\$252	\$2,016,896
Southside Substation	64	\$252	\$16,135
Sunnyside Substation	400	\$252	\$100,845
Garage/Warehouse (Win Oil leased)	3,500	\$252	\$882,392
Purchased "Pod" Storage Space	2,560	\$5	\$12,000
<b>TOTAL</b>	<b>46,672</b>	<b>\$239</b>	<b>11,133,166</b>

Source: City of Flagstaff, Police Department

[1] Reflects non-administrative space

[2] 2007 values adjusted for inflation to Feb 2013 CPI

Land Use	Proportionate Share	2013 Service Units	Square Feet per Service Unit	Cost per Service Unit
Residential	70%	74,941 Population	0.44	<b>\$104.19</b>
Nonresidential	30%	102,819 Nonres Vehicle Trips	0.14	<b>\$32.55</b>

⁴ Level of service is shown as a rounded figure. However, the analysis itself uses figures carried to their ultimate decimal places; therefore the sums and products generated in the analysis may not equal the sum or product if the reader replicates the calculation with the factors shown here (due to the rounding of figures shown, not in the analysis.)

## Police Vehicles

The City plans to maintain the LOS for Police vehicles that it provides to existing development. Thus, the incremental expansion methodology is used to calculate this component of the Police Facilities IIP. The City currently has a fleet of 78 Police vehicles. Based on the proportionate share analysis, residential development creates 70 percent of the demand for police vehicles, with nonresidential development accounting for 30 percent of the demand. The current LOS for residential development is calculated as follows:  $(78 \text{ vehicles} \times 70\% \text{ proportionate share}) / (74,941 \text{ persons} / 1,000) = 0.73 \text{ vehicles per } 1,000 \text{ persons}$ . This calculation is repeated for nonresidential development resulting in a LOS of 0.23 vehicles per 1,000 nonresidential vehicle trips.

The cost per service unit is the product of LOS and the average cost per unit. The cost per service unit for residential development is calculated as follows:  $(0.73 \text{ LOS} / 1,000) \times \$34,300 \text{ average cost per unit} = \$24.99 \text{ cost per service unit}$ .⁵ This calculation is repeated for nonresidential development resulting in a cost of \$7.81 per nonresidential vehicle trip.

**Figure 30: Incremental Expansion – Police Vehicles**

Type of Vehicle	Units in Service	Unit Price [1]	Replacement Cost
Patrol Sedan	32	\$38,054	\$1,217,741
Patrol Motorcycle	4	\$16,157	\$64,629
Patrol Motorcycle Trainer	3	\$11,480	\$34,440
Patrol Utility Vehicle	2	\$38,905	\$77,810
Patrol 4x4 Pickup Truck	1	\$28,594	\$28,594
Prisoner Transport Van	1	\$44,220	\$44,220
Patrol Surveillance Van	1	\$162,210	\$162,210
Bomb Squad Response Vehicle	1	\$176,028	\$176,028
Bomb Squad Trailer	1	\$85,038	\$85,038
Mobile Command Post	1	\$60,377	\$60,377
Radar/Sign Board Trailer	3	\$25,511	\$76,534
Full Service Sedan [2]	23	\$21,259	\$488,967
Graffiti Eradication Van	1	\$31,995	\$31,995
Street Crimes Task Force Vehicle	2	\$36,779	\$73,558
Utility Trailer	1	\$3,720	\$3,720
Animal Control 4x4 Pickup Truck	1	\$51,916	\$51,916
<b>TOTAL</b>	<b>78</b>	<b>\$34,300</b>	<b>\$2,677,776</b>

Source: City of Flagstaff, Police Department

[1] Includes all pieces of equipment to place the vehicle in service; Adjusted for Inflation Feb 2013 CPI

[2] Reflects updated inventory to remove vehicles used for administrative services

Land Use	Proportionate Share	2013 Service Units	Vehicles per 1,000 Service Units	Cost per Service Unit
Residential	70%	74,941 Population	0.73	<b>\$24.99</b>
Nonresidential	30%	102,819 Nonres Vehicle Trips	0.23	<b>\$7.81</b>

⁵ Level of service is shown as a rounded figure. However, the analysis itself uses figures carried to their ultimate decimal places; therefore the sums and products generated in the analysis may not equal the sum or product if the reader replicates the calculation with the factors shown here (due to the rounding of figures shown, not in the analysis.)

## Police Communications System - Equipment and Infrastructure

The City of Flagstaff maintains an inventory of communications equipment and infrastructure associated with the Public Safety Communications Command Center. The shared center dispatches calls for the City of Flagstaff, Coconino County and surrounding public safety agencies, as well as providing communications infrastructure for the City of Flagstaff Department of Public Works. Each agency places differing levels of demand on the system. As discussed above, annual calls for service were used to calculate the share of the components allocated to the City of Flagstaff Police Department; and functional population factors were used to calculate the demands placed on the system by residential and nonresidential land uses in the service area.

### ***Level of Service***

There are two types of communications equipment associated with the shared system; first is the portable equipment assigned to staff and vehicles, and second is the computer equipment necessary to dispatch and track calls for service. Communications infrastructure includes the telecommunications towers for the wireless network.

Of the communication equipment and infrastructure that constitute the City of Flagstaff shared system, the City of Flagstaff Police Department makes use of 72 components. Portable components used by the Police Department are allocated to the Police Department at 100 percent. Dispatch communications components like the computer system's server are allocated based on demand on the system generated by the Police Department, and determined by calls for service (see the **Public Safety Communications Command Center Calls for Service** section above).

Demand placed on the *communications infrastructure* by the Police Department was determined by the City of Flagstaff. According to the City, the Police Department generates 26.53 percent of the total demand for the *communications infrastructure*. The remaining demand on the *communications infrastructure* is generated by the Flagstaff Fire and Public Works Departments as well as from other jurisdictions.

As shown in Figure 31, these proportionate share factors are used to adjust the count of components to reflect only the share of the total 72 components used by the Police Department. The Police Department uses 100 percent of the 27 *portable communications* components, 61 percent (26.84 units) of the 44 *dispatch communications* components, and 26.53 percent of the *communications infrastructure*. These shares equate to 54.11 units of communications equipment and infrastructure used by the Police Department.

The communications equipment and infrastructure LOS for residential development is calculated as follows:  $(54.11 \text{ pieces of equipment} \times 70\% \text{ proportionate share}) / (74,941 / 1,000) = 0.51 \text{ pieces of equipment per 1,000 persons}$ . This calculation is repeated for nonresidential development resulting in a LOS of 0.16 pieces of equipment per 1,000 nonresidential vehicle trips.

**Figure 31: Level of Service Police Communications System - Equipment and Infrastructure**

Communications Equipment and Infrastructure	Units in Service	Police Dept. Share of Units [1]	Units Used by Police Dept.	Average Cost per Unit	Replacement Cost [2]
Equipment - Portable Communications	27	100.00%	27.00	\$3,900	\$105,300
Equipment - Dispatch Communications	44	61.00%	26.84	\$5,366	\$144,026
Infrastructure - Tower and Network [3]	1	26.53%	0.27	\$3,952,287	\$1,048,542
<b>TOTAL</b>	<b>72</b>		<b>54.11</b>	<b>\$59,635</b>	<b>\$1,297,868</b>

Source: City of Flagstaff Police Department

[1] City of Flagstaff Public Safety Communications Command Center

[2] Replacement cost is the Police Department's share of Total Units multiplied by cost per unit.

[3] City of Flagstaff. (2012). Communications Infrastructure proportionate share

Land Use	Proportionate Share	2013 Service Units	Equipment & Infrastructure per 1,000 Service Units
Residential	70%	74,941 Population	0.51
Nonresidential	30%	102,819 Nonres Vehicle Trips	0.16



### **Cost per Service unit**

The costs per service unit for the Police *communications equipment* and *communications infrastructure* are calculated separately.

- **Communications Infrastructure:** The City of Flagstaff debt financed the expansion of the public safety *communications infrastructure* in 2011. As new development utilizes its proportionate share of the available capacity of the expanded system the City plans to have new development pay for its share of the remaining debt. Thus, the cost recovery methodology is used to calculate the cost per service unit for Police *communications infrastructure* (shown in Figure 33).
- **Communications Equipment:** The cost per service unit for Police *communications equipment* is calculated using an incremental expansion methodology.

### **Communications Equipment**

To calculate the cost per service unit for Police *communications equipment*, first the replacement costs are calculated for each component by multiplying the per unit cost by the share of units allocated to the Police Department. Next, the replacement value for just the *communications equipment* was calculated resulting in a value of \$249,326 for the Police *communications equipment* alone. (*Communications infrastructure* is calculated and shown separately). The current cost of Police *communications equipment* per service unit for residential development is calculated as follows: (\$249,326 X 70% proportionate share)/74,941 persons = \$2.33 per capita. This calculation is repeated for nonresidential development and results in a cost per service unit of \$0.73.

**Figure 32: Incremental Expansion –Communications Equipment**

Communications Equipment and Infrastructure	Units in Service	Police Dept. Share of Units [1]	Units Used by Police Dept.	Average Cost per Unit	Replacement Cost [2]
Equipment - Portable Communications	27	100.00%	27.00	\$3,900	\$105,300
Equipment - Dispatch Communications	44	61.00%	26.84	\$5,366	\$144,026
Infrastructure - Tower and Network [3]	1	26.53%	0.27	\$3,952,287	\$1,048,542
<b>TOTAL</b>	<b>72</b>		<b>54.11</b>	<b>\$59,635</b>	<b>\$1,297,868</b>
<b>Total for Communications Equipment</b>	<b>71</b>		<b>53.84</b>	<b>\$4,631</b>	<b>\$249,326</b>

Source: City of Flagstaff Police Department

[1] City of Flagstaff Public Safety Communications Command Center

[2] Replacement cost is the Police Department's share of Total Units multiplied by cost per unit.

[3] City of Flagstaff. (2012). *Communications Infrastructure proportionate share*

Land Use	Proportionate Share	2013 Service Units	Equipment per 1,000 Service Units	Cost per Service Unit
Residential	70%	74,941 Population	0.50	<b>\$2.33</b>
Nonresidential	30%	102,819 Nonres Vehicle Trips	0.16	<b>\$0.73</b>

### *Communications Infrastructure*

The City of Flagstaff issued debt in 2011 to pay for *communications infrastructure* improvements. As new development utilizes its proportionate share of the available capacity of the *communications infrastructure*, the City plans to have new development pay for its share of the remaining debt. Thus, the cost recovery methodology is used, and the growth share is based on projected persons and nonresidential vehicle trips at the end of the bond term.

The City's Police, Fire, and Public Works Departments use the *communications infrastructure*, along with surrounding public safety agencies. According to the City of Flagstaff, the Police Department generates 26.53 percent of total demand on the infrastructure.

The City of Flagstaff has a fiscal year that runs July 1st through June 30th. The final payments for debt obligation are due July 1st, or the start of the fiscal year. Therefore, the service units at the time of the last payment, July 1, 2021, are used to calculate the growth share by land use. TischlerBise projects the City of Flagstaff will add 6,670 persons and see an additional 7,811 nonresidential vehicle trips between July of 2013 and 2021, which equates to 8 percent of the 2021 projected combined population and nonresidential trips. The formula to calculate growth share is as follows:  $192,241 \text{ population and nonresidential vehicle trips in 2021} - 177,760 \text{ population and nonresidential vehicle trips in 2013} / 192,241 \text{ population and nonresidential vehicle trips in 2021} = 8 \text{ percent (rounded)}$ .

The cost per service unit for residential development is calculated as follows:  $(\$3,658,398 \text{ remaining principal and interest} \times 26.53\% \text{ Police proportionate share} \times 8\% \text{ growth share} \times 70\% \text{ residential proportionate share}) / 6,670 \text{ net increase in persons} = \$8.15 \text{ cost per capita}$ . This calculation is repeated nonresidential and results in a cost per nonresidential vehicle trip of \$2.98.

**Figure 33: Cost Recovery – Police Communications Infrastructure**

Debt Obligation		Year of Final	Remaining Principal
Year Issued	Name	Payment	and Interest
2011	Communications Equipment	2021	\$3,658,398

Source: City of Flagstaff, Finance Department

Land Use	Portion Attributable to Police Dept. [1]	Growth Share [2]	Proportionate Share [3]	Increase 2013-2021 Service Units [4]	Cost per Service Unit
Residential	26.53%	8%	70%	6,670 Population	<b>\$8.15</b>
Nonresidential			30%	7,811 Nonres Vehicle Trips	<b>\$2.98</b>

Source: City of Flagstaff, Finance Department

[1] City of Flagstaff Public Safety Communications Command Center

[2] Share of projected population and nonresidential vehicle trips attributable to new growth

[3] TischlerBise. (2013). Functional Population

[4] TischlerBise. (2013). Development Fee Land Use Assumptions

### **Excluded Costs**

Development fees in Flagstaff exclude costs to upgrade, update, improve, expand, correct or replace those necessary public services to meet existing needs and usage and stricter safety, efficiency, environmental or regulatory standards. The City of Flagstaff Capital Improvement Plan addresses the cost of these excluded items.

### **Current Use and Available Capacity**

According to City staff, Police communications infrastructure has surplus capacity to serve growth; therefore, a cost recovery methodology was used to calculate the growth share of future principal and interest payments. Police facilities, vehicles, and communications equipment are fully utilized; therefore, there is no available capacity for future development.

## RATIO OF SERVICE UNIT TO DEVELOPMENT UNIT

ARS 9-463.05(E)(4) requires:

*“A table establishing the specific level or quantity of use, consumption, generation or discharge of a service unit for each category of necessary public services or facility expansions and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial and industrial.”*

Figure 34 displays the ratio of a service unit (i.e., persons and nonresidential vehicle trips) to various types of land uses for residential and nonresidential development. The residential development table displays the *Persons per Household* factors for single family and multifamily homes.

For nonresidential development, average daily vehicle trips are used for the Police Facilities IIP as a measure of demand by land use. TischlerBise recommends using nonresidential vehicle trips as the best demand indicator for Police Facilities. Trip generation rates are used for nonresidential development because vehicle trips are highest for commercial developments, such as shopping centers, and lowest for industrial/flex development. Office and institutional trip rates fall between the other two categories.

Other possible nonresidential demand indicators, such as employment or floor area, would not accurately reflect the demand for service. For example, if employees per thousand square feet were used as the demand indicator, Police Facilities development fees would be too high for office and institutional development because offices typically have more employees per 1,000 square feet than retail uses. If floor area were used as the demand indicator Police Facilities development fees would be too high for industrial development.

**Figure 34: Police Facilities Ratio of Service Unit to Land Use**

Residential Development	
Land Use	Persons per Household [1]
Single Unit	2.75
2+ Unit	2.57

[1] TischlerBise. (2013).  
Development Fee Land Use Assumptions

Nonresidential Development			
Land Use	Weekday Trip	Trip	
	Ends [2] (a)	Adjustment [3] (b)	Vehicle Trips (a X b)
Commercial KSF	42.70	33%	14.09
Office/Institutional KSF	11.03	50%	5.52
Industrial/Flex KSF	3.82	50%	1.91

[2] Institute of Transportation Engineers. (2012). Trip Generation Manual 9th Edition

[3] Average adjustment used to count every trip only once, at the point of final destination.

Vehicle trips are estimated using average weekday vehicle trips ends from the reference book Trip Generation published by the Institute of Transportation Engineers (ITE 9th Edition 2012). A vehicle trip end represents a vehicle either entering or exiting a development (as if a traffic counter were placed across a driveway).

Trip generation rates are adjusted to avoid double counting each trip at both the origin and destination points. Therefore, the basic trip adjustment factor of 50 percent is applied to the office/institutional, and industrial/flex categories. The commercial/retail category has a trip factor of less than 50 percent because this type of development attracts vehicles as they pass-by on arterial and collector roads. For an average size shopping center, the ITE (2012) indicates that on average 34 percent of the vehicles that enter are passing by on their way to some other primary destination. The remaining 66 percent of attraction trips have the shopping center as their primary destination, of which half (33%) are trip ends.

### PROJECTED SERVICE UNITS AND INFRASTRUCTURE DEMAND

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ARS 9-463.05(E)(3) requires:

*“A description of all or the parts of the necessary public services or facility expansions and their costs necessitated by and attributable to development in the service area based on the approved land use assumptions, including a forecast of the costs of infrastructure, improvements, real property, financing, engineering and architectural services, which shall be prepared by qualified professionals licensed in this state, as applicable.”*

ARS 9-463.05(E)(5) requires:

*“The total number of projected service units necessitated by and attributable to new development in the service area based on the approved land use assumptions and calculated pursuant to generally accepted engineering and planning criteria.”*

ARS 9-463.05(E)(6) requires:

*“The projected demand for necessary public services or facility expansions required by new service units for a period not to exceed ten years.”*

## Police Communications Infrastructure

The development fee enabling legislation requires all development fees to be reevaluated every five years. For the five-year period of this Police Facilities IIP and Development Fee Study, the City of Flagstaff will collect a Police *communications infrastructure* fee to pay down the debt incurred to improve the network and add a telecommunications tower, to ensure the shared Public Safety Communications Command Center would have sufficient capacity to serve growth. Over the remaining period of the debt obligation, the City of Flagstaff is projected to add an additional 6,670 persons, and see an additional 7,811 nonresidential vehicle trips. As shown in Figure 35, projected development between 2013 and 2021 will generate demand for the remaining portion of *communications infrastructure* that is attributable to the Flagstaff Police Department.

**Figure 35: Projected Demand for Police Communications Infrastructure**

Existing Police Communications Infrastructure = 26.53% of 1 System Unit							
		Residential		Nonresidential		Demand for Units	Remaining Capacity
		Service Units	2021 LOS per 1,000	Service Units	2021 LOS per 1,000		
		Population	Service Units	Vehicle Trips	Service Units		
Base Yr	2013	74,941	0.002	102,819	0.001	0.24	0.021
1	2014	76,931	0.002	103,771	0.001	0.25	0.016
2	2015	77,576	0.002	104,726	0.001	0.25	0.013
3	2016	78,228	0.002	105,688	0.001	0.25	0.011
4	2017	78,889	0.002	106,662	0.001	0.26	0.009
5	2018	79,558	0.002	107,637	0.001	0.26	0.007
6	2019	80,234	0.002	108,636	0.001	0.26	0.005
7	2020	80,918	0.002	109,630	0.001	0.26	0.002
8	2021	81,611	0.002	110,630	0.001	0.27	0.000

## Police Facilities, Vehicles, and Communications Equipment

TischlerBise projects an additional 8,084 persons and 9,864 trips over the next ten years. This new development will demand approximately 4,867 additional square feet of Police facilities. The City of Flagstaff Police Department will need to expand its fleet of Police vehicles incrementally by eight units to maintain the current level of service, and add five units of *communications equipment*.

The ten-year totals of the projected demand for each existing Police category is multiplied by the respective costs per unit to determine the total cost of each category to accommodate the projected demand over the next ten years. For example, the projected development over the next ten years requires eight additional Police vehicles. This is multiplied by the average cost of \$34,300 per vehicle to calculate the total ten-year cost for Police vehicles to be \$274,400. This calculation was repeated for each Police Component. See Figure 36 for additional details.

**Figure 36: Projected Demand for Police Facilities, Vehicles, and Communications Equipment**

		Service Units		Facilities per Service Unit	Vehicles per 1,000 Service Units	Comm. Equip.
Res LOS		Persons	Nonresidential Vehicle Trips			
Nonres LOS						
		Average Cost per Unit		\$239	\$34,300	\$4,631

				Projected Demand (Rounded)		
		Projected Service Units		Facilities (sq. ft.)	Vehicles (units)	Comm. Equip. (units)
		Persons	Nonres Trips			
Base	2013	74,941	102,819	46,672	78	54
1	2014	76,931	103,771	47,669	80	55
2	2015	77,576	104,726	48,080	80	55
3	2016	78,228	105,688	48,496	81	56
4	2017	78,889	106,662	48,916	82	56
5	2018	79,558	107,637	49,341	82	57
6	2019	80,234	108,636	49,772	83	57
7	2020	80,918	109,630	50,205	84	58
8	2021	81,611	110,630	50,643	85	58
9	2022	82,314	111,652	51,089	85	59
10	2023	83,025	112,683	51,539	86	59
<b>Ten-Year Total</b>		<b>8,084</b>	<b>9,864</b>	<b>4,867</b>	<b>8</b>	<b>5</b>
Cost of Police Facilities				\$1,163,213		
Cost of Police Vehicles				\$274,400		
Cost of Police Communications Equipment				\$23,155		

## Police Facilities Improvements Plan

Lastly, the 10-year plan for necessary Police Facilities improvements and expansions identified by the City of Flagstaff are listed in the figure below. The figure below reflects new purchases and does not include debt service costs associated with Police communications infrastructure.

Figure 37: Necessary Police Facilities Expansions

<b>Improvements</b>		<b>10-Year Plan</b>
Projects		
	Facilities	
	Emergency Operations Center	\$140,910
	Incremental Expansion of Police Facilities	\$1,022,303
	Incremental Expansion of Vehicles	\$274,400
	Incremental Expansion of Communications Equipment	\$23,155
	<b>TOTAL</b>	<b>\$1,460,768</b>

## MAXIMUM SUPPORTABLE POLICE FACILITIES DEVELOPMENT FEES

The proposed development fees by land use for Police Facilities are shown in Figure 38 on the following page.

## Police Facilities IIP and Development Fee Study

Included in the Police Facilities *per service unit cost* is the cost to prepare the Police Facilities IIP and Development Fee Study. See **Appendix A – Cost of Professional Services** for the detailed calculations.

## Revenue Credit

Included in the maximum supportable development fees is a *Revenue Credit* of 0 percent. The unadjusted Police Facilities development fees per development unit would not generate more revenue over the next ten years, based on the approved [Land Use Assumptions](#), than the identified growth-related necessary expenditures of \$1,550,395 (existing debt service, necessary expansions, plus the IIP and Development Fee Study cost). To ensure that no more fee revenue is collected than the City plans to spend, the potential gross cost per service unit is reduced by the revenue credit to calculate the net capital cost per service unit. Based on the gross capital costs per service unit, the projected development fee revenue would equal \$1,125,690. See Figure 38 and Figure 39 for additional detail. Therefore, no revenue credit adjustment is necessary for the Police Facilities development fees.



**Figure 38: Maximum Supportable Police Facilities Development Fees**

<b>Police Level Of Service and Capital Costs</b>		<b><u>Per Person</u></b>
Police Facilities		\$104.19
Police Vehicles		\$24.99
Police Communications Equipment		\$2.33
Police Communications Infrastructure - Debt Services		\$8.15
IIP and Development Fee Study		\$1.82
<b>GROSS CAPITAL COST</b>		<b>\$141.48</b>
<b>Revenue Credit</b>		<b>0%</b>
		<b>(\$0.00)</b>
<b>NET CAPITAL COST</b>		<b>\$141.48</b>

<b>Police Residential Development Fee Schedule</b>			<b>Development Fee per Housing Unit</b>		
<b>Unit Type</b>	<b>Number of Bedrooms</b>	<b>Persons per Household [1]</b>	<b>Proposed Fee</b>	<b>Current Fee [2]</b>	<b>Increase (Decrease)</b>
2+ Units	All Sizes	2.57	\$362	\$184	\$178
Single Unit	0-3	2.62	\$370	\$231	\$139
Single Unit	4+	3.29	\$464	\$231	\$233
Single Unit	Avg	2.75	\$388	\$231	\$157

[1] TischlerBise. (2013). Development Fee Land Use Assumptions  
[2] TischlerBise. (28Nov11). January 1, 2012 Interim Development Fees

<b>Police Level Of Service and Capital Costs</b>		<b><u>Per Trip</u></b>
Police Facilities		\$32.55
Police Vehicles		\$7.81
Police Communications Equipment		\$0.73
Police Communications Infrastructure - Debt Services		\$2.98
IIP and Development Fee Study		\$0.75
<b>GROSS CAPITAL COST</b>		<b>\$44.82</b>
<b>Revenue Credit</b>		<b>0%</b>
		<b>(\$0.00)</b>
<b>NET CAPITAL COST</b>		<b>\$44.82</b>

<b>Police Nonresidential Development Fee Schedule</b>			<b>Development Fee per Square Foot of Floor Area</b>		
<b>Nonresidential Land Use</b>	<b>Weekday Vehicle Trip Ends</b>	<b>Trip Rate Adj. Factors</b>	<b>Proposed Fee</b>	<b>Current Fee [3]</b>	<b>Increase (Decrease)</b>
	<b>(Per 1,000 sq. ft.)</b>		<b>(Per Square Foot of Floor Area)</b>		
Commercial	42.70	33%	\$0.63	\$0.68	(\$0.05)
Office/Institutional	11.03	50%	\$0.25	\$0.24	\$0.01
Industrial/Flex	3.82	50%	\$0.09	\$0.06	\$0.03

[3] TischlerBise. (28Nov11). January 1, 2012 Interim Development Fees  
The 2012 nonresidential fees were by size thresholds, averages are shown here.

## FORECAST OF REVENUES FOR POLICE FACILITIES

**Appendix B – Forecast of Revenues Other Than Development Fees** contains the forecast of revenues required by Arizona’s enabling legislation.

### Police Facilities Cash Flow

Revenue projections shown below assume implementation of the maximum supportable Police Facilities development fees and that development over the next ten years is consistent with the [Land Use Assumptions](#) described in Appendix C. To the extent the rate of development either accelerates or slows down, there will be a corresponding change in the development fee revenue. The deficit shown in the revenue projection below represents the portion of necessary investments that will not be recouped through Police Facilities development fee revenue.

**Figure 39: Projected Revenue for Police Facilities**

#### Ten-Year Growth-Related Costs for Police Facilities

Police Facilities	\$1,163,213
Police Vehicles	\$274,400
Police Communications Equipment	\$23,155
Police Communications Infrastructure - Debt Service*	\$77,646
IIP and Development Fee Study	\$11,981
<b>TOTAL</b>	<b>\$1,550,395</b>

[1] Debt Service cost shown above represents only the growth share of the debt obligation.

		Per Housing Unit		Per Square Foot of Floor Area		
		Single Unit	2+ Units	Commercial	Office	Industrial
		\$388	\$362	\$0.63	\$0.25	\$0.09
Year		Housing Units Added		Square Feet Added (1,000)		
Base	2013	16,833	10,324	4,195	6,084	5,316
Year 1	2014	16,942	10,391	4,234	6,139	5,370
Year 2	2015	17,052	10,458	4,273	6,193	5,424
Year 3	2016	17,162	10,526	4,313	6,248	5,478
Year 4	2017	17,273	10,594	4,353	6,303	5,532
Year 5	2018	17,385	10,662	4,393	6,359	5,588
Year 6	2019	17,497	10,731	4,434	6,416	5,643
Year 7	2020	17,610	10,800	4,474	6,473	5,700
Year 8	2021	17,724	10,870	4,515	6,530	5,757
Year 9	2022	17,839	10,940	4,557	6,588	5,815
Year 10	2023	17,954	11,011	4,599	6,648	5,873
Ten-Yr Increase		1,121	687	404	564	557
Projected Fees =>		\$434,948	\$248,694	\$255,127	\$139,281	\$47,640
<b>Total Projected Revenues</b>		<b>\$1,125,690</b>				
Cumulative Net Surplus/(Deficit)		<b>(\$424,705)</b>				

## APPENDIX A – COST OF PROFESSIONAL SERVICES

The table below displays each section of the Public Safety IIP and Development Fee Study. Each necessary public service is assigned a cost, followed by the proportionate share factors used to allocate the cost to residential and nonresidential land uses. Next, the figure displays the change in service units between 2013 and 2018, and finally the cost per service unit. (Because development fees are updated at least every five years, the cost is assessed against the service units for only 5 years.)

**Figure A40: IIP and Development Fee Study**

### Fire Development Fee Report

Land Use		Residential	Nonresidential
Proportionate Share		70%	30%
Fire Consultant Fee	\$12,729	\$8,910	\$3,819

Service Unit		Person	Vehicle Trip
Increase in Service Units	2013-2018	4,617	4,818
Cost per Service Unit		\$1.93	\$0.79

### Police Development Fee Report

Land Use		Residential	Nonresidential
Proportionate Share		70%	30%
Police Consultant Fee	\$11,981	\$8,387	\$3,594

Service Unit		Person	Vehicle Trip
Increase in Service Units	2013-2018	4,617	4,818
Cost per Service Unit		\$1.82	\$0.75

Source: TischlerBise. (2012). Development Fee Land Use Assumptions

## APPENDIX B – FORECAST OF REVENUES OTHER THAN DEVELOPMENT FEES

ARS 9-463.05(E)(7) requires:

*“A forecast of revenues generated by new service units other than development fees, which shall include estimated state-shared revenue, highway users revenue, federal revenue, ad valorem property taxes, construction contracting or similar excise taxes and the capital recovery portion of utility fees attributable to development based on the approved land use assumptions, and a plan to include these contributions in determining the extent of the burden imposed by the development as required in subsection B, paragraph 12 of this section.”*

ARS 9-463.05(B)(12) states,

*“The municipality shall forecast the contribution to be made in the future in cash or by taxes, fees, assessments or other sources of revenue derived from the property owner towards the capital costs of the necessary public service covered by the development fee and shall include these contributions in determining the extent of the burden imposed by the development. Beginning August 1, 2014, for purposes of calculating the required offset to development fees pursuant to this subsection, if a municipality imposes a construction contracting or similar excise tax rate in excess of the percentage amount of the transaction privilege tax rate imposed on the majority of other transaction privilege tax classifications, the entire excess portion of the construction contracting or similar excise tax shall be treated as a contribution to the capital costs of necessary public services provided to development for which development fees are assessed, unless the excess portion was already taken into account for such purpose pursuant to this subsection.”*

The City of Flagstaff does not have a higher than normal construction excise tax rate, so the required offset described above is not applicable. The required forecast of non-development fee revenue that might be used for growth-related capital costs is shown in below. There are no General Fund revenues used for growth-related capital expenditures. The City of Flagstaff allocates the Secondary Property Tax revenue to a Debt Service fund. These funds are available for capital investments; however, **the City of Flagstaff directs revenue from the Secondary Property Tax to non-development fee eligible capital needs.** The forecast of revenue to be generated from the Secondary Property Tax was calculated by the City, and is shown in Figure B41.

**Figure B41: Five-Year Revenue Projection, Secondary Property Tax**

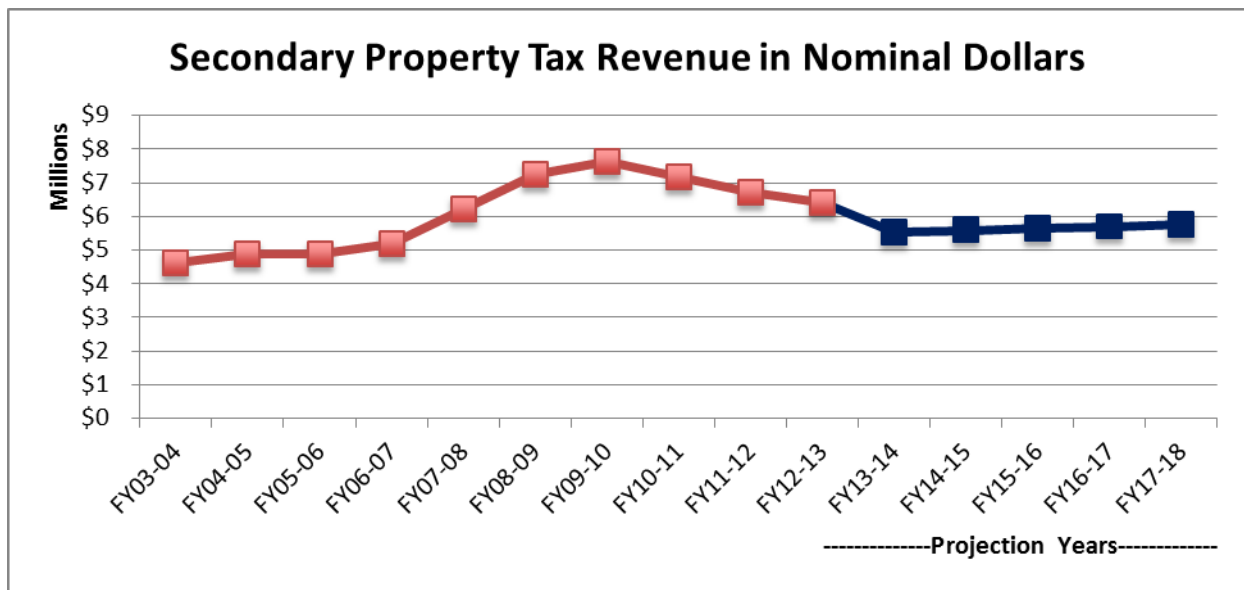
*Forecast of Revenues in Nominal Dollars*

	FY13-14	FY14-15	FY15-16	FY16-17	FY17-18
Secondary Property Taxes Levied for Debt Service	\$5,530,453	\$5,585,758	\$5,641,615	\$5,698,031	\$5,755,012

Source: City of Flagstaff, Finance Department

The figure below charts ten years of past revenues from the Secondary Property Tax, as reported in the City of Flagstaff Comprehensive Annual Financial Reports, and the revenue projections for the next five fiscal years. As shown, for the next five years, the City projects annual revenue generated by the Secondary Property Tax will remain relatively flat.

**Figure B42: Secondary Property Tax Revenue Trend and Projections**



Source: City of Flagstaff, Finance Department

## APPENDIX C – LAND USE ASSUMPTIONS

Arizona Revised Statutes (ARS) 9-463.05 (T)(6) requires the preparation of a Land Use Assumptions document, which shows:

*“projections of changes in land uses, densities, intensities and population for a specified service area over a period of at least ten years and pursuant to the General Plan of the municipality.”*

TischlerBise prepared current demographic **estimates** and future development **projections** for both residential and nonresidential development that will be used in the Infrastructure Improvement Plan (IIP) and calculation of the development fees. Current demographic data estimates for FY12-13 are used in calculating levels-of-service (LOS) provided to existing development in the City of Flagstaff. Although long-range projections are necessary for planning infrastructure systems, a shorter period of five to ten years is critical for the development fee analysis. Arizona’s Development Fee Act requires fees to be updated at least every five years and limits the Infrastructure Improvements Plan to a maximum of ten years. The estimates and projections presented herein were calculated from data used by the City of Flagstaff to develop the 2012 Regional Plan Update for the City of Flagstaff planning region.

### SUMMARY OF GROWTH INDICATORS

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Development projections and growth rates are summarized in Figure C43. These projections will be used to estimate development fee revenue and to indicate the anticipated need for growth-related infrastructure. However, development fee methodologies are designed to reduce sensitivity to accurate development projections in the determination of the proportionate share fee amounts. If actual development is slower than projected, development fee revenues will also decline, but so will the need for growth-related infrastructure. In contrast, if development is faster than anticipated, the City will receive an increase in development fee revenue, but will also need to accelerate capital improvements to keep pace with development.

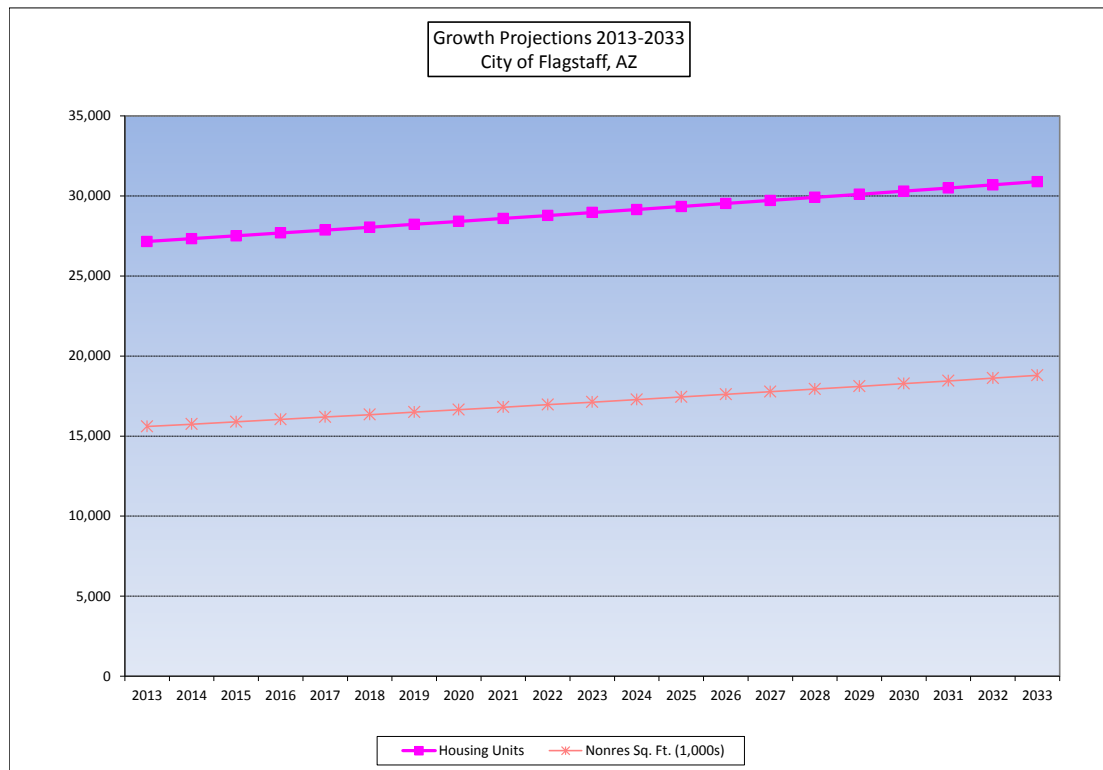
Development projections are calculated through a three-step process. First, TischlerBise used historic population, housing, and employment data from the U.S. Census Bureau, and building permit data provided by the City of Flagstaff to calculate base year 2013 estimates. Second, TischlerBise had discussions with staff and used projections developed by the City of Flagstaff for the 2012 Regional Plan Update process. The City of Flagstaff calculated 20-year projections for population, housing, employment, and land use, based on 2010 decennial census counts and an internally designed high population growth assumption. Finally, TischlerBise applied exponential growth formulas based on the City of Flagstaff 2030 projections of year-round population, housing units, and jobs to estimate projections for each year beyond the base year 2013. See Figure C43 below for a summary of the base year estimates and 20-year projections. The City of Flagstaff is expected to add an average of 187 housing units and 160,000 square feet of non-residential floor area annually.

The City of Flagstaff calculated projections based on two growth scenarios using a low annual growth rate of 0.79 percent and a high annual growth rate of 1.06 percent. Housing unit, employment and land development projections for the 2012 Regional Plan Update were all calculated based on the high annual growth rate to ensure the City of Flagstaff is as prepared as possible to absorb potential growth.

Figure C43: Summary of Development Projections and Growth Rates

	Five-Year Increments ==>													Cumulative	Avg. Ann.
	Base Yr 2013	1 2014	2 2015	3 2016	4 2017	5 2018	6 2019	7 2020	8 2021	9 2022	10 2023	15 2028	20 2033	Increase 2013-2033	Increase 2013-2033
RESIDENTIAL DEVELOPMENT															
Housing Units															
Single Family	16,833	16,942	17,052	17,162	17,273	17,385	17,497	17,610	17,724	17,839	17,954	18,542	19,148	2,315	116
Multifamily	10,324	10,391	10,458	10,526	10,594	10,662	10,731	10,800	10,870	10,940	11,011	11,371	11,743	1,419	71
TOTAL	27,157	27,333	27,510	27,688	27,867	28,047	28,228	28,410	28,594	28,779	28,965	29,913	30,891	3,734	187
Nonres Floor Area (1,000 SF)															
Commercial (1,000 SF)	4,195	4,234	4,273	4,313	4,353	4,393	4,434	4,474	4,515	4,557	4,599	4,816	5,044	849	42
Office/Instit (1,000 SF)	6,084	6,139	6,193	6,248	6,303	6,359	6,416	6,473	6,530	6,588	6,648	6,948	7,262	1,178	59
Industrial/Flex (1,000 SF)	5,316	5,370	5,424	5,478	5,532	5,588	5,643	5,700	5,757	5,815	5,873	6,172	6,487	1,171	59
TOTAL	15,595	15,742	15,890	16,038	16,188	16,339	16,493	16,648	16,802	16,960	17,119	17,936	18,793	3,198	160
ANNUAL INCREASES (City Limits)														2013-2033	
	12-13	13-14	14-15	15-16	16-17	17-18	18-19	19-20	20-21	21-22	22-23	27-28	32-33	Avg Annual	
Housing Units	176	177	178	179	180	181	182	184	185	186	186	192	198	187	
Nonres Floor Area (1,000 SF)	147	148	148	150	151	154	155	154	158	160	160	165	175	160	

Source: City of Flagstaff, TischlerBise



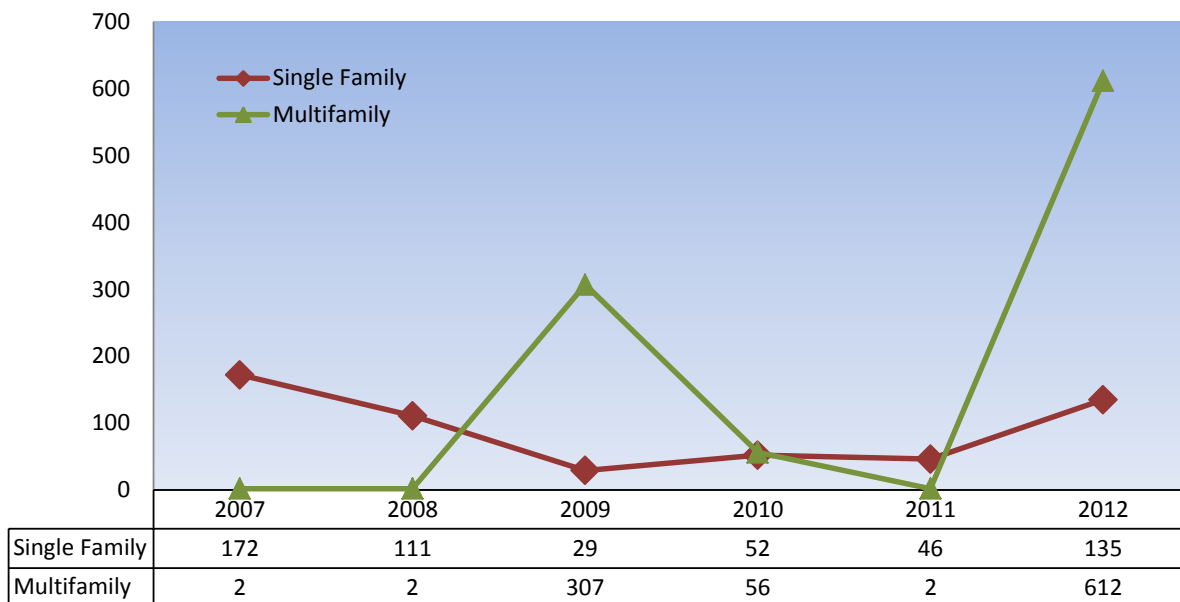
## RESIDENTIAL DEVELOPMENT

Current estimates and future projections of residential development are detailed in this section, including population and housing units by type.

### Current Housing Unit Estimates

Development fees require an analysis of current levels of service. For residential development, current levels of service are determined using estimates of population and housing units. To estimate current housing units in the City of Flagstaff, TischlerBise obtained building permit information from the City. This information is then used to determine a base year estimate of housing units. Figure C44 shows residential building permit trends by number and type of housing unit for the City of Flagstaff.

**Figure C44: Residential Building Permits in the City of Flagstaff, 2007-2012**



Source: City of Flagstaff

Residential housing units, and building permit trends, by type are shown in Figure C45 below. To calculate total housing units, the distribution of 63 percent single family and 37 percent multifamily units in the City was calculated from the 2011 U.S. Census American Community Survey (ACS), 1-Year Estimates for *Units in Structure*. This distribution was applied to the total number of units reported by the 2010 decennial census to get 16,600 single family units, and 9,654 multifamily units in the City of Flagstaff in 2010.



Figure C45: Residential Housing Units in the City of Flagstaff

<b>Building Permits [1]</b>		<b>2010*</b>	<b>2011*</b>	<b>2012*</b>	<b>Total</b>	<b>Average</b>
Single Family [2]		52	46	135	233	78
Multifamily [3]		56	2	612	670	223
Total		108	48	747	903	
<i>*Issued during calendar year</i>						
		<b>Base Year</b>				<b>2013</b>
<b>Housing Units [4]</b>		<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>Distribution[^]</b>
Single Family	63%	16,600	16,652	16,698	16,833	62%
Multifamily	37%	9,654	9,710	9,712	10,324	38%
Total		26,254	26,362	26,410	27,157	
<i>[^] Reflects the addition of issued permits</i>						

- [1] City of Flagstaff Community Development Department, Monthly Construction Permits  
 [2] Single Family includes detached, attached, and mobile homes  
 [3] Multifamily includes structures with 2 or more units  
 [4] U.S. Census Bureau, 2010 Decennial Census: DP1  
 [5] U.S. Census Bureau, 2011 American Community Survey 1-Year Estimates: Table B25024

To estimate 2011, 2012, and 2013 housing units, the building permits issued each year were added to the housing units, starting with the 2010 census count. TischlerBise estimates the City of Flagstaff had 27,157 housing units at the start of base year 2013. The addition of 612 multifamily units in 2012 changed the 2013 distribution of housing units by type to 62 percent single family and 38 percent multifamily.

### Current Household Size and Peak Population

According to the U.S. Census Bureau, a household is a housing unit that is occupied by year-round residents. Development fees often use per capita standards and persons per housing unit (PPHU) or persons per household (PPH) to derive proportionate share fee amounts. When PPHU is used in the fee calculations, infrastructure standards are derived using year-round population. When PPH is used in the fee calculations, the development fee methodology assumes a higher percentage of housing units will be occupied, thus requiring seasonal or peak population to be used when deriving infrastructure standards. TischlerBise recommends that development fees for residential development in the City of Flagstaff be imposed according to the number of persons per household. This methodology recognizes the impacts of seasonal population peaks.

Persons per household requires data on population in occupied units and the types of units by structure. The 2010 decennial census did not obtain detailed information using a “long-form” questionnaire. Instead, the U.S. Census Bureau switched to a continuous monthly mailing of surveys, known as the American Community Survey (ACS), which has limitations due to sample-size constraints. For example, data on detached housing units are now combined with attached single units (commonly known as townhouses). For development fees in Flagstaff, “single family” residential units include detached (both stick-built and manufactured) and attached (commonly known as townhouses, which share a common sidewall, but are constructed on an individual parcel of land). The second residential category includes duplexes and all other structures with two or more units on an individual parcel of land. (Note: housing unit estimates from the ACS will not equal decennial census counts of units. These data are used only to derive the custom PPH factors for each type of unit).

Figure C46 below shows the ACS 2011 1-Year Estimates for the City of Flagstaff. To calculate the PPH, persons (57,726) is divided by households (21,534). Dwellings with a single unit per structure (detached, attached, and mobile homes) averaged 2.75 persons per household. Dwellings in structures with multiple units averaged 2.57 PPH. The 2011 City of Flagstaff total PPH was 2.68.

**Figure C46: Persons per Household by Type of Housing**

Units in Structure	Renter & Owner		Persons per Household	Housing Units	Persons Per Hsg Unit	Vacancy Rate
	Persons	HsehlDs				
Single Family	32,735	11,891	2.75	14,879	2.20	20%
Mobile Homes	4,358	1,601	2.72	1,703	2.56	6%
2+ Units	20,633	8,042	2.57	9,643	2.14	17%
Total	57,726	21,534	2.68	26,225		
				Vacant/Seasonal HU	4,691	

2011 Summary by Type of Housing	Persons	House- holds	PPH	Housing Units	PPHU	Housing Mix
Single Family [1]	37,093	13,492	2.75	16,582	2.24	63%
Multifamily [2]	20,633	8,042	2.57	9,643	2.14	37%
Subtotal	57,726	21,534	2.68	26,225	2.20	Vacancy
Group Quarters	8,178					Rate
TOTAL	65,904	21,534		26,225		17.9%

Source: U.S. Census Bureau, 2011 American Community Survey 1-Year Estimates

[1] Single Family includes detached, attached, and mobile homes

[2] Multifamily includes duplex and all other units with 2 or more units per structure

### Peak Population Estimate

The first step in estimating a base year peak population is to calculate a *peak occupancy rate* using ACS estimates of housing units by occupancy. The *peak occupancy rate* is used to determine the number of *peak households* (occupied housing units during seasonal/peak periods). Occupied and vacant housing unit estimates, shown in Figure C47, are from the 2011 ACS 1-Year Estimates, which is the most recent information available for the City. Due to data availability, the share of vacant units counted as “vacant units for seasonal, recreational, or occasional use” is from the ACS 3-Year Estimates, and was used to estimate the percentage of 2011 vacant units that were occupied by seasonal population. Based on the ACS 3-Year Estimates, 51 percent (2,398) of the estimated 4,691 vacant units are seasonally populated. Peak households (23,932) is the sum of year-round occupied households (21,534) and seasonally populated units (2,398). The 2011 Peak Occupancy Rate of 91 percent is the relationship of peak households (23,932) to total housing units (21,534 occupied plus 4,691 vacant). Using peak households reduces the vacancy rate from a year-round rate of 17.9 percent to a seasonal rate of 8.7 percent.

**Figure C47: Household Occupancy Rates for City of Flagstaff**

2011 Peak Households Estimate	Housing Units			Peak Households		Peak Occ. Rate
	Occupied	Vacant	Seasonal*	Count	Share	
Single Family	11,891	2,988	1,535	13,426	56%	90%
Mobile Homes	1,601	102	48	1,649	7%	97%
2+ Units	8,042	1,601	815	8,857	37%	92%
Total	21,534	4,691	2,398	23,932	100%	91%

Source: U.S. Census Bureau, 2011 American Community Survey 1-Year Estimates

*Seasonal share of vacant units estimated from U.S. Census Bureau, 2011 ACS 3-Year Estimates

Next in the process to estimate a base year peak population is to apply the peak occupancy rates by unit type to the 2010-2012 residential building permit data from Figure C44 above to determine how many peak households have been added since the 2010 decennial census count. According to the 2011 ACS 1-Year Estimates, occupied single family units are 63 percent of the City's households. The distribution is applied to the 2010 decennial census count of peak households (i.e., 91% of total housing units) to calculate an estimate of 14,969 single family households and 8,922 multifamily households. The annual units added are adjusted by the peak occupancy rates calculated in Figure C47 above, and then added to the 2010 estimate to determine the 2013 peak households by type. See Figure C48 for additional detail.

**Figure C48: Peak Households**

2010 Peak Households Estimate	Peak		Peak Households Added Annually [2]			2013 Peak Households
	Households [1]	Occupancy	2010	2011	2012	
Single Family	14,969	91%	47	42	123	15,181
Multifamily	8,922	92%	52	2	563	9,539
Total	23,891	91%	99	44	686	24,720

[1] U.S. Census Bureau, 2010 Decennial Census

[2] City of Flagstaff Community Development Department, Monthly Construction Permits

The last step in calculating a base year peak population for the City of Flagstaff is to apply the persons per household by housing type (see Figure C46) to the base year peak households by housing type (see Figure C48). The final 2013 peak population estimate for City of Flagstaff is the population in single family and multifamily households (66,267) plus the estimated 2013 population living in *group quarters*, which includes Northern Arizona University student housing. As part of the 2012 Regional Plan Update, The City of Flagstaff used 2010 decennial census as the base year figures from which to calculate a projected annual *group quarters* population growth rate of 2.41 percent (assuming the high population growth scenario used for other demographic and housing projections). As shown in Figure C49, the 2013 *group quarters* population estimate of 8,674 is added to the peak households population estimate of 66,267 to determine a base year 2013 peak population of 74,941 persons in the City of Flagstaff.

Figure C49: Peak Population Estimate

2013 Peak Households Estimate	Persons Per Household [1]	Peak	
		Households	Population
Single Family	2.75	15,181	41,736
Multifamily	2.57	9,539	24,474
Total	2.68	24,720	66,267
		Group Quarters [2]	8,674
		Total Base Year Peak Population	74,941

[1] Shown as rounded numbers

[2] City of Flagstaff 2012 Regional Plan Update,  
high population growth scenario

## Peak Population and Housing Unit Projections

TischlerBise analyzed recent growth trends, reviewed the City of Flagstaff 2012 Regional Plan Update data, and had discussions with staff. Based on the high population growth scenario and 2010 decennial census counts, the City of Flagstaff projects a 2030 housing unit estimate of 30,300 units, which equates to an annual growth rate of 0.72 percent. TischlerBise adjusted the annual growth rate to reflect the 2013 base year housing unit estimate of 27,157. The adjusted growth rate of 0.65 percent was used to calculate an estimate of housing units for each year past 2013. Housing units were divided into single family and multifamily unit estimates as described above, and then peak occupancy rates and persons per household factors were applied to the annual housing units added to calculate annual additional peak population in households. See Figure C50 for a summary of the projections.

Included in the City of Flagstaff 2012 Regional Plan Update demographic projections was the assumption that the *group quarters* population within the City (and including Northern Arizona University student housing) would grow at an annual rate of 2.41 percent, to reach a 2030 projected total of 13,000 persons. The annual growth rate was applied to the 2010 decennial census *group quarters* population count of 8,076 to estimate a *group quarters* population for each year beyond 2010. See Figure C50 for a summary of the projections.

Figure C50: Peak Population and Housing Unit Projections

	Decennial Census [1]	Estimates [2]				Projection [3]		Exponential Growth Rates	
	2010	2011	2012	2013	2018	2023	2030	2010-30	2013-30
Housing Units	26,254	26,362	26,410	27,157	28,047	28,965	30,300	0.72%	0.65%
Peak Population in Households [4]			64,428	66,267	69,788	72,021	75,271		0.75%
Group Quarters	8,076	8,271	8,470	8,674	9,770	11,005	13,000	2.41%	2.41%
Peak Population [4]			72,898	74,941	79,558	83,025	88,271		0.97%

[1] U.S. Census Bureau, 2010 Decennial Census

[2] Estimates calculated using the 2010-2030 Exponential Growth Rate

[3] 2030 projections from City of Flagstaff 2012 Regional Plan Update, high population growth scenario

[4] TischlerBise

Annual population projections for the City of Flagstaff are the sum of the peak population in households and the group quarter population. The 2013 base year estimate of 74,941 and the 2030 peak population projection of 88,271 persons were used to calculate an exponential growth rate of 0.97 percent for the City of Flagstaff peak population.

### Year-Round Population Estimates and Projections

The City of Flagstaff used U.S. Census Bureau 2010 decennial census data as the foundation for the City's 2012 Regional Plan Update. Arizona Department of Administration data from December of 2012 was used to calculate 2012 base year estimates. Intercensal population estimates produced by the Arizona Department of Administration demonstrate an average annual growth rate for the City of Flagstaff that has slowed from a 2007 peak of 3.3 percent and a 2010 peak of 2.2 percent. While the City of Flagstaff does not expect to return to past growth rates, it does expect annual growth well into the future, and that the City will host a growing share of the Coconino County population. Population projections calculated from the decennial census assume a sustained annual growth rate of 1.06 percent and a 2030 population of 81,300.

To calculate a 2013 year-round population, TischlerBise used annual Arizona Department of Administration Interim Intercensal July Population Estimates for 2010, 2011, and 2012. Next, the annual exponential growth rate of 1.06 percent was calculated from the 2010 and 2030 populations used by City of Flagstaff for the high growth scenario. According to the high growth scenario assumptions, the 2013 City of Flagstaff population is 67,024. The annual exponential growth rate of 1.14 percent was calculated from the 2013 population estimate and the 2030 projection, and then applied to each projection year past 2013 to match the City of Flagstaff projected 2030 population of 81,300. Figure C51 presents a summary of the population projections for the City of Flagstaff and Coconino County.

**Figure C51: Population Estimates and Projections for City of Flagstaff**

	April Census [1]	Annual July Population Estimates [2]					Population Projections [3]			Exponential Growth Rates	
	2010	2010	2011	2012	2013	2018	2023	2030	2010-30	2013-30	
City of Flagstaff	65,870	65,985	66,013	66,322	67,024	70,941	75,086	81,300	1.06%	1.14%	
Coconino County	134,421	134,679	134,162	134,313	135,394	141,632	148,157	157,800	0.80%	0.90%	
City Share	49.0%	49.0%	49.2%	49.4%	49.5%	50.1%	50.7%	51.5%			

[1] U.S. Census Bureau, 2010 Decennial Census

[2] Arizona Department of Administration, Interim Intercensal Population Estimates

[3] 2030 population projection from City of Flagstaff 2012 Regional Plan Update, high population growth scenario

Year-round population estimates and projections are presented here to demonstrate the difference in growth patterns for the year-round (1.14%) and peak populations (0.97%) of the City.

### Population and Residential Development Summary

Peak Population and housing unit projections are used to illustrate the possible future pace of service demands, revenues, and expenditures. As these factors will vary to the extent that future development varies, there will be virtually no effect on the actual amount of the development fee. See Figure C52 below for a summary of population and housing unit projections.

Figure C52: Population and Housing Unit Projections in the City of Flagstaff, 2013-2033

	Five-Year Increments ==>													Cumulative Increase	Avg. Ann. Increase
	Base Yr 2013	1 2014	2 2015	3 2016	4 2017	5 2018	6 2019	7 2020	8 2021	9 2022	10 2023	15 2028	20 2033	2013-2033	2013-2033
SUMMARY OF DEMAND PROJECTIONS (City Limits)															
TOTAL PEAK POPULATION	74,941	76,931	77,576	78,228	78,889	79,558	80,234	80,918	81,611	82,314	83,025	86,723	90,670	15,729	786
TOTAL HOUSING UNITS	27,157	27,333	27,510	27,688	27,867	28,047	28,228	28,410	28,594	28,779	28,965	29,913	30,891	3,734	187
RESIDENTIAL DEVELOPMENT															
Housing Units															
Single Family	16,833	16,942	17,052	17,162	17,273	17,385	17,497	17,610	17,724	17,839	17,954	18,542	19,148	2,315	116
Multifamily	10,324	10,391	10,458	10,526	10,594	10,662	10,731	10,800	10,870	10,940	11,011	11,371	11,743	1,419	71
TOTAL	27,157	27,333	27,510	27,688	27,867	28,047	28,228	28,410	28,594	28,779	28,965	29,913	30,891	3,734	187
														2013-2033	
ANNUAL INCREASES (City Limits)															
	12-13	13-14	14-15	15-16	16-17	17-18	18-19	19-20	20-21	21-22	22-23	27-28	32-33	Avg Annual	
Peak Population		1,990	645	652	661	669	676	684	693	703	711	759	810	786	
Housing Units		176	177	178	179	180	181	182	184	185	186	192	198	187	

Source: City of Flagstaff; TischlerBise

## NONRESIDENTIAL DEVELOPMENT

### Employment Estimates and Projections

In addition to data on residential development, the calculation of development fees requires data on nonresidential square footage and employment (number of jobs) in the City of Flagstaff.

TischlerBise analyzed recent employment trends, reviewed data provided by the City of Flagstaff, and had discussions with staff. According to the analysis conducted by the City of Flagstaff, the City historically hosts between 60 and 65 percent of all Coconino County employment. The City expects this trend to continue well into the future. See Figure C53 below for additional information on County and City employment trends. According to the City of Flagstaff, 2010 employment in the City was approximately 37,100. The city projects 2030 employment will reach 44,600, based on the high population growth scenario used for the 2012 Regional Plan Update. TischlerBise used 2010 and 2030 data to calculate an exponential employment growth rate of 0.92 percent for the City and 0.69 percent for the County. Employment estimates and projections between 2010 and 2030 were calculated with exponential growth rates. TischlerBise estimates the City of Flagstaff had 38,139 jobs for the base year of 2013.

**Figure C53: Employment Trends in Coconino County and City of Flagstaff**

	City of Flagstaff Estimates [1]			Employment Estimates			Employment Projections [2]			Exponential Growth Rates	
	2000	2004	2010	2011	2012	2013	2018	2023	2030	2010-30	2013-30
City of Flagstaff	38,400	39,244	37,100	37,443	37,789	38,139	39,935	41,816	44,600	0.92%	0.92%
Coconino County	58,400	62,200	61,100	61,523	61,948	62,377	64,565	66,829	70,133	0.69%	0.69%
City Share	65.8%	63.1%	60.7%	60.9%	61.0%	61.1%	61.9%	62.6%	63.6%		

[1] City of Flagstaff 2012 Regional Plan Update; based on the 2010 employment estimate from U.S. Census Bureau LEHD web-based application OnTheMap, "all jobs" plus 5% assumed undercount

[2] 2030 projections from City of Flagstaff 2012 Regional Plan Update, high population growth scenario

### Employment by Industry Type

In addition to projecting total employment, as part of the City of Flagstaff 2012 Regional Plan Update process, the City analyzed employment trends and set economic development priorities for the future. City staff made three assumptions to project employment distribution into the future. First, total employment assumes the high population growth scenario used for the 2012 Regional Plan Update. Second, as the County seat, the region will have a high percentage of government office jobs. Third, Industrial/Flex jobs will grow at a faster rate (1.00%) than Commercial/Retail jobs (0.93%) and Office/Institutional jobs (0.89%). Between 2010 and 2030, the City of Flagstaff expects to add 7,500 jobs. Figure C54 shows the incremental growth in employment by industry type.

Figure C54: Employment Distribution by Industry Type

	City of Flagstaff Estimates [1]		Base Year Employment Estimates [2]		Industry Employment Projection [3]	
	2010	2010 Share	2013	2013 Share	2030	Growth Rate
Commercial/Retail	8,162	22%	8,390	22%	9,812	0.93%
Office/Institutional	19,663	53%	20,214	53%	23,496	0.89%
Industrial/Flex	9,275	25%	9,535	25%	11,292	1.00%
<b>TOTAL</b>	<b>37,100</b>	<b>100%</b>	<b>38,139</b>	<b>100%</b>	<b>44,600</b>	<b>0.92%</b>

[1] City of Flagstaff, 2012 Regional Plan Update, high population growth scenario

[2] TischlerBise, based on 2010 distribution from the City of Flagstaff

[3] Due to development activity since the 2012 Regional Plan Update process,  
the projected industry employment figures deviate from previous assumptions

## NONRESIDENTIAL SQUARE FOOTAGE DEVELOPMENT

Job estimates are used to estimate nonresidential square footage based on nationally recognized average square feet per employee data published by The Institute of Transportation Engineers (ITE), and shown in Figure C55.

Figure C55: The Institute of Transportation Engineers, Employee and Building Area Ratios, 2012

ITE Code	Land Use / Size	Demand Unit	Weekday Trip Ends per Demand Unit*	Emp Per Employee*	Emp Per Dmd Unit**	Sq Ft Per Emp
<b>Commercial / Shopping Center</b>						
820	Average	1,000 Sq Ft	42.70	na	2.00	500
<b>General Office</b>						
710	Average	1,000 Sq Ft	11.03	3.32	3.32	301
<b>Other Nonresidential</b>						
770	Business Park***	1,000 Sq Ft	12.44	4.04	3.08	325
760	Research & Dev Center	1,000 Sq Ft	8.11	2.77	2.93	342
610	Hospital	1,000 Sq Ft	13.22	4.50	2.94	340
565	Day Care	student	4.38	26.73	0.16	na
550	University/College	student	1.71	8.96	0.19	na
530	High School	student	1.71	19.74	0.09	na
520	Elementary School	student	1.29	15.71	0.08	na
520	Elementary School	1,000 Sq Ft	15.43	15.71	0.98	1,018
320	Lodging	room	5.63	12.81	0.44	na
254	Assisted Living	bed	2.66	3.93	0.68	na
151	Mini-Warehouse	1,000 Sq Ft	2.50	61.90	0.04	24,760
150	Warehousing	1,000 Sq Ft	3.56	3.89	0.92	1,093
140	Manufacturing	1,000 Sq Ft	3.82	2.13	1.79	558
110	Light Industrial	1,000 Sq Ft	6.97	3.02	2.31	433

* Trip Generation, Institute of Transportation Engineers, 9th Edition (2012).

** Employees per demand unit calculated from trip rates, except for Shopping Center data, which are derived from Development Handbook and Dollars and Cents of Shopping Centers, published by the Urban Land Institute.



TischlerBise used 2012 factors from the ITE to calculate the total nonresidential floor area for three categories of development used for the calculation of development fees. To estimate current nonresidential floor area, 2013 job estimates by category were multiplied by ITE square feet per employee factors. It is estimated the City of Flagstaff has approximately 16 million square feet of nonresidential space in active use. The estimated square footage in 2013 for each major category of nonresidential development is shown below in Figure C56.

**Figure C56: Estimated Employment and Nonresidential Floor Area in City of Flagstaff, 2013**

	<i>2013 Estimated Jobs</i>	<i>Square Feet Per Employee [1]</i>	<i>2013 Nonresidential Floor Area</i>	
			<i>Square Feet</i>	<i>Distribution</i>
Commercial/Retail	8,390	500	4,195,000	27%
Office/Institutional	20,214	301	6,084,359	39%
Industrial/Flex	9,535	558	5,316,636	34%
<b>TOTAL</b>	<b>38,139</b>	<b>409</b>	<b>15,595,995</b>	<b>100%</b>

[1] Trip Generation Manual, Institute of Transportation Engineers  
9th Edition (2012). Shown as rounded numbers.

### Nonresidential Floor Area and Employment Projections

Future employment growth and nonresidential development in the City of Flagstaff are projected based on information provided by City staff, and TischlerBise's analysis of past trends in the City. To project employment for the City, TischlerBise applied the industry-specific growth rates for each year beyond the base year 2013 estimates by industry category.

The projected increase in employment by industry type is then used to project growth in nonresidential square footage using the *Employee per Square Footage* data previously discussed. Results are shown in Figure C57. The City expects to add on average 386 jobs a year for the next twenty years. To keep pace with employment growth, the City should expect to add roughly 160,000 square feet of nonresidential development each year.

Figure C57: Nonresidential Floor Area and Employment Projections in City of Flagstaff, 2013-2033

	Five-Year Increments ==>													Cumulative	Avg. Ann.
	Base Yr	1	2	3	4	5	6	7	8	9	10	15	20	Increase	Increase
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2028	2033	2013-2033	2013-2033
SUMMARY OF DEMAND PROJECTIONS (City Limits)															
TOTAL JOBS	38,139	38,492	38,848	39,207	39,569	39,935	40,304	40,678	41,053	41,433	41,816	43,786	45,849	7,710	386
NONRESIDENTIAL DEVELOPMENT															
Employment By Type															
Commercial/Retail	8,390	8,468	8,546	8,625	8,705	8,785	8,867	8,949	9,031	9,115	9,199	9,633	10,087	1,697	85
Office/Institutional	20,214	20,394	20,575	20,758	20,942	21,129	21,316	21,506	21,697	21,890	22,085	23,084	24,128	3,914	196
Industrial/Flex	9,535	9,630	9,727	9,824	9,922	10,021	10,121	10,223	10,325	10,428	10,532	11,069	11,634	2,099	105
TOTAL	38,139	38,492	38,848	39,207	39,569	39,935	40,304	40,678	41,053	41,433	41,816	43,786	45,849	7,710	386
Nonres Floor Area (1,000 SF)															
Commercial (1,000 SF)	4,195	4,234	4,273	4,313	4,353	4,393	4,434	4,474	4,515	4,557	4,599	4,816	5,044	849	42
Office/Insttit (1,000 SF)	6,084	6,139	6,193	6,248	6,303	6,359	6,416	6,473	6,530	6,588	6,648	6,948	7,262	1,178	59
Industrial/Flex (1,000 SF)	5,316	5,370	5,424	5,478	5,532	5,588	5,643	5,700	5,757	5,815	5,873	6,172	6,487	1,171	59
TOTAL	15,595	15,742	15,890	16,038	16,188	16,339	16,493	16,648	16,802	16,960	17,119	17,936	18,793	3,198	160
														2013-2033	
ANNUAL INCREASES (City Limits)	12-13	13-14	14-15	15-16	16-17	17-18	18-19	19-20	20-21	21-22	22-23	27-28	32-33	Avg Annual	
Jobs		353	356	359	362	366	369	374	375	380	383	401	420	386	
Nonres Floor Area (1,000 SF)		147	148	148	150	151	154	155	154	158	160	165	175	160	

Source: City of Flagstaff; TischlerBise

## AVERAGE DAILY VEHICLE TRIPS

Nonresidential average Daily Vehicle Trips are used for the Public Safety development fee category as a measure of demand by land use. Vehicle trips are estimated using average weekday vehicle trip ends from the reference book, *Trip Generation, 9th Edition*, published by the Institute of Transportation Engineers (ITE) in 2012. A vehicle trip end represents a vehicle either entering or exiting a development (as if a traffic counter were placed across a driveway).

### Trip Rate Adjustments

Trip generation rates are adjusted to avoid double counting each trip at both the origin and destination points. Therefore, the basic trip adjustment factor of 50 percent is applied to the office/institutional, and industrial/flex categories. The commercial/retail category has a trip factor of less than 50 percent because this type of development attracts vehicles as they pass-by on arterial and collector roads. For an average size shopping center, the ITE (2012) indicates that on average 34 percent of the vehicles that enter are passing by on their way to some other primary destination. The remaining 66 percent of attraction trips have the shopping center as their primary destination. Because attraction trips are half of all trips, the trip adjustment factor of 66 percent is multiplied by 50 percent to calculate a trip adjustment factor for commercial land use of 33 percent.

### Estimated Vehicle Trips in Flagstaff

Trip adjustment factors are used in conjunction with average weekday vehicle trip ends provided by ITE (2012) to calculate average vehicle trips in the City of Flagstaff based on existing development. Figure C58 details the calculations to determine that existing nonresidential development in the City generates an average of 102,819 vehicle trips on an average weekday. An example of the calculation is as follows for commercial land uses: 4,195 x 42.70 vehicle trips per day per 1,000 square feet x 33 percent adjustment factor = 59,112 total vehicle trips per day from commercial development in the City. The same calculation is done for each land use type.

Figure C58: Average Daily Trips from Existing Development in City of Flagstaff

Base Year									
<b>Nonresidential Vehicle Trips on an Average Weekday**</b>	<b>2013</b>								
<b>Nonresidential Gross Floor Area (1,000 sq. ft.)</b>	<i>Assumptions</i>								
Commercial/Retail	4,195								
Office/Institutional	6,084								
Industrial/Flex	5,316								
<b>Average Weekday Vehicle Trips Ends per 1,000 Sq. Ft.**</b>	<table border="1"> <thead> <tr> <th><i>Trip Rate</i></th><th><i>Trip Factor</i></th></tr> </thead> <tbody> <tr> <td>Commercial</td><td>42.70 33%</td></tr> <tr> <td>Office/Institutional</td><td>11.03 50%</td></tr> <tr> <td>Industrial/Flex</td><td>3.82 50%</td></tr> </tbody> </table>	<i>Trip Rate</i>	<i>Trip Factor</i>	Commercial	42.70 33%	Office/Institutional	11.03 50%	Industrial/Flex	3.82 50%
<i>Trip Rate</i>	<i>Trip Factor</i>								
Commercial	42.70 33%								
Office/Institutional	11.03 50%								
Industrial/Flex	3.82 50%								
<b>Nonresidential Vehicle Trips on an Average Weekday</b>									
Commercial	59,112								
Office/Institutional	33,553								
Industrial/Flex	10,154								
<b>Total Nonresidential Trips</b>	<b>102,819</b>								

**Trip rates are from the Institute of Transportation Engineers. (2012). *Trip Generation Manual 9th Edition*

## DEMAND INDICATORS BY SIZE OF DETACHED HOUSING

As part of the development fee effort for the City of Flagstaff, TischlerBise further analyzed demographic data to present the option to refine the development fee schedule to be more progressive for residential development. This can be done by developing fees by size of housing unit based on bedroom count. Household size can be derived using custom tabulations of demographic data by bedroom range from survey responses provided by the U.S. Census Bureau in files known as Public Use Micro-data Samples (PUMS). Because PUMS data are only available for areas of roughly 100,000 persons, the City of Flagstaff is in Arizona Public Use Micro-data Area (PUMA) 0400. Data is first analyzed for the PUMA area and then calibrated to conditions in the City of Flagstaff.

TischlerBise used 2011 ACS 1-Year Estimates to derive persons per household by number of bedrooms. As shown in Figure C59, TischlerBise derived trip generation rates and average persons, by bedroom range, using the number of persons. Recommended multipliers were scaled to make the average value by type of housing for Arizona PUMA 0400 match the average value derived from ACS data specific to Flagstaff. As the number of bedrooms increases so do the persons per household.

**Figure C59: Average Persons per Household by Bedroom Range in City of Flagstaff**

	AZ PUMA 0400 [1]		Recommended Multipliers for Municipality [2]
	Households	Persons	Persons per Household
Single Family 0-3 Bdrms	457	1,258	2.62
Single Family 4+ Bdrms	109	376	3.29
<i>Single Family Subtotal</i>	<i>566</i>	<i>1,634</i>	<i>2.75</i>
Multi family Total	102	220	2.57
AZ PUMA 0400 TOTAL	668	1,854	

[1] American Community Survey, Public Use Microdata Sample for AZ PUMA 0400 (unweighted data for 2011).

[2] Recommended multipliers are scaled to make the average value by type of housing for AZ PUMA 0400 match the average value for Flagstaff, derived from American Community Survey 2011 data, with persons adjusted to the Citywide average of 2.75 persons per single family household.

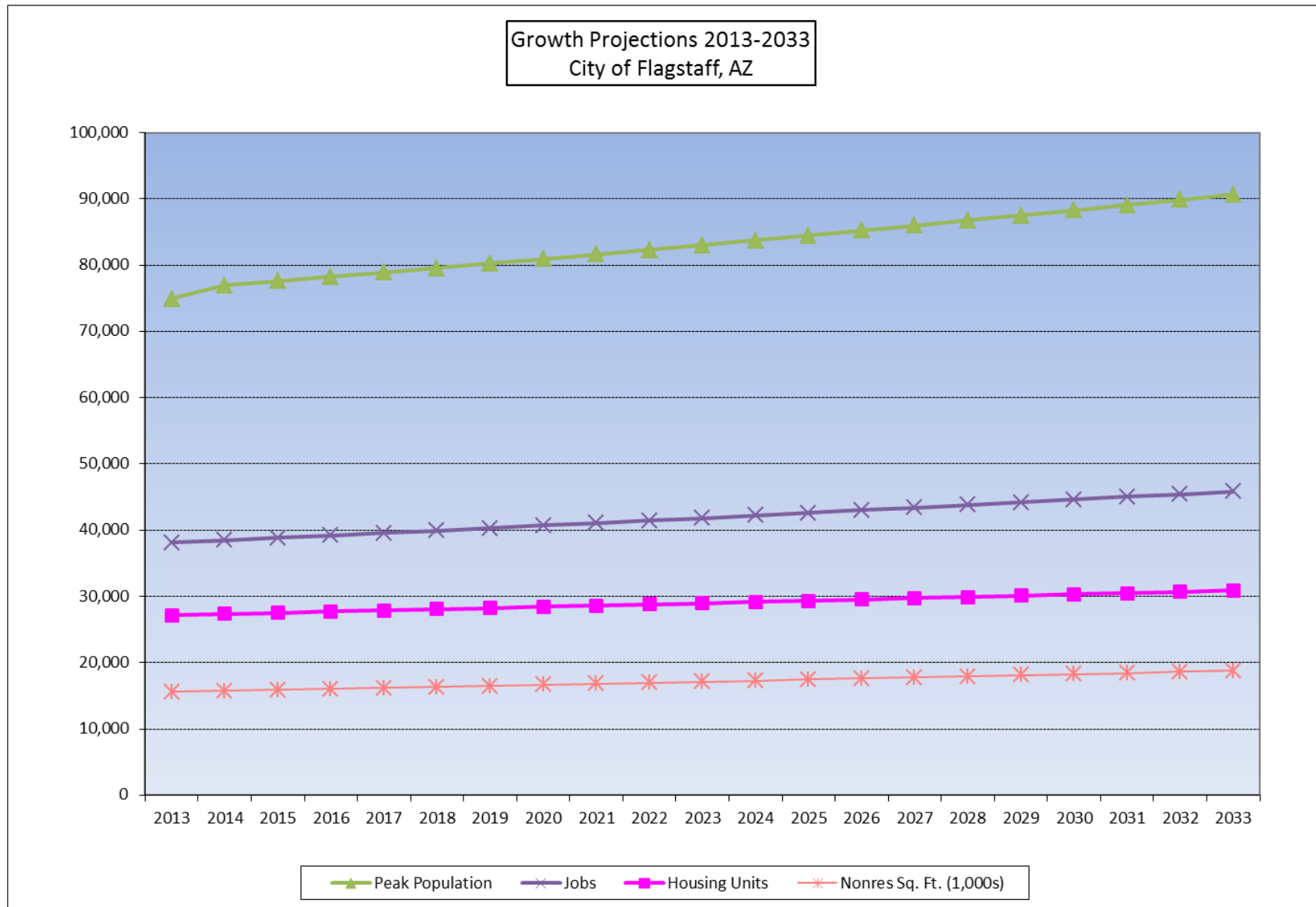
## LAND USE ASSUMPTIONS SUMMARY

Provided on the next page is a summary of annual demographic and development projections to be used for the development fee study. Base year estimates for 2013 are used in the development fee calculations. Development projections are used to illustrate a possible future pace of service demands and cash flows resulting from revenues and expenditures associated with those service demands.

Figure C60: Summary – City of Flagstaff Land Use Assumptions, 2013-2033

		Five-Year Increments ==>												Cumulative	Avg. Ann.
	Base Yr	1	2	3	4	5	6	7	8	9	10	15	20	Increase	Increase
	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2028	2033	2013-2033	2013-2033
SUMMARY OF DEMAND PROJECTIONS (City Limits)															
TOTAL PEAK POPULATION	74,941	76,931	77,576	78,228	78,889	79,558	80,234	80,918	81,611	82,314	83,025	86,723	90,670	15,729	786
TOTAL HOUSING UNITS	27,157	27,333	27,510	27,688	27,867	28,047	28,228	28,410	28,594	28,779	28,965	29,913	30,891	3,734	187
TOTAL JOBS	38,139	38,492	38,848	39,207	39,569	39,935	40,304	40,678	41,053	41,433	41,816	43,786	45,849	7,710	386
RESIDENTIAL DEVELOPMENT															
Housing Units															
Single Family	16,833	16,942	17,052	17,162	17,273	17,385	17,497	17,610	17,724	17,839	17,954	18,542	19,148	2,315	116
Multifamily	10,324	10,391	10,458	10,526	10,594	10,662	10,731	10,800	10,870	10,940	11,011	11,371	11,743	1,419	71
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NONRESIDENTIAL DEVELOPMENT															
Employment By Type															
Commercial/Retail	8,390	8,468	8,546	8,625	8,705	8,785	8,867	8,949	9,031	9,115	9,199	9,633	10,087	1,697	85
Office/Institutional	20,214	20,394	20,575	20,758	20,942	21,129	21,316	21,506	21,697	21,890	22,085	23,084	24,128	3,914	196
Industrial/Flex	9,535	9,630	9,727	9,824	9,922	10,021	10,121	10,223	10,325	10,428	10,532	11,069	11,634	2,099	105
TOTAL	38,139	38,492	38,848	39,207	39,569	39,935	40,304	40,678	41,053	41,433	41,816	43,786	45,849	7,710	386
Nonres Floor Area (1,000 SF)															
Commercial (1,000 SF)	4,195	4,234	4,273	4,313	4,353	4,393	4,434	4,474	4,515	4,557	4,599	4,816	5,044	849	42
Office/Instit (1,000 SF)	6,084	6,139	6,193	6,248	6,303	6,359	6,416	6,473	6,530	6,588	6,648	6,948	7,262	1,178	59
Industrial/Flex (1,000 SF)	5,316	5,370	5,424	5,478	5,532	5,588	5,643	5,700	5,757	5,815	5,873	6,172	6,487	1,171	59
TOTAL	15,595	15,742	15,890	16,038	16,188	16,339	16,493	16,648	16,802	16,960	17,119	17,936	18,793	3,198	160
Nonresidential Trips															
Commercial (1,000 SF)	59,112	59,661	60,211	60,767	61,331	61,895	62,472	63,043	63,621	64,213	64,805	67,862	71,068	11,956	598
Office/Instit (1,000 SF)	33,553	33,854	34,155	34,458	34,764	35,070	35,385	35,700	36,013	36,333	36,661	38,318	40,052	6,499	325
Industrial/Flex (1,000 SF)	10,154	10,256	10,360	10,463	10,567	10,672	10,779	10,887	10,996	11,106	11,217	11,788	12,390	2,236	112
TOTAL Nonresidential Trips	102,819	103,771	104,726	105,688	106,662	107,637	108,636	109,630	110,630	111,652	112,683	117,968	123,510	20,691	1,035
ANNUAL INCREASES (City Limits)														2013-2033	
Peak Population	12-13	13-14	14-15	15-16	16-17	17-18	18-19	19-20	20-21	21-22	22-23	27-28	32-33	Avg Annual	
Housing Units		176	177	178	179	180	181	182	184	185	186	192	198		
Jobs		353	356	359	362	366	369	374	375	380	383	401	420		
Nonres Floor Area (1,000 SF)		147	148	148	150	151	154	155	154	158	160	165	175		

Source: City of Flagstaff; TischlerBise





# COMMUNITY DEVELOPMENT

## MEMORANDUM

**Date:** March 18, 2014

**To:** All Interested Parties

**From:** Dan Folke, Planning Director

**Subject:** Development Fee Renewal

---

The City of Flagstaff began collecting development fees, also known as impact fees, in 2009. The City currently collects fees for public safety purposes, limited to capital projects for the Police and Fire Departments. Fees can only be used to fund service level demands that have increased directly as a result of community growth. The State of Arizona enacted SB1525 which requires all current impact fee programs to be evaluated and subsequently updated every five years.

On February 18, 2014 the City Council adopted the Land Use Assumptions, which model future growth, and an Infrastructure Improvement Plan, which identifies what the fees will be used for. On April 1, 2014 at 6 p.m. the City Council will hold a public hearing on the proposed development fees for Police and Fire capital programs. City Council will consider adoption of the new fees on May 6, and May 13, 2014.

A draft report, *City of Flagstaff Public Safety Development Fees, Infrastructure Improvement Plan, and Land Use Assumptions* was updated on February 7, 2014 by consulting firm TischlerBise. The proposed fees have been revised since the November 1, 2013 report, primarily due to a change in the methodology of assigning public safety calls for service between residential and non-residential. While the residential fees have increased, the commercial fees have decreased from the November, 2013 draft. A summary of the current and proposed fees is found in Table 1. The report also includes the projected expenses and revenues over the next ten years for Police and Fire capital programs. (Attached to this memo)

At this time the City is encouraging all interested parties to review the report and proposed fees and provide public comment, either at the April 1 public hearing or in writing to staff. If you and your organization would like to learn more about

the growth projections, planned capital program or the current or proposed fees, City staff is available to make a presentation.

The complete report can be viewed on the City website at:

<http://www.flagstaff.az.gov/DocumentCenter/View/43920>

**Table 1. Comparison of City of Flagstaff Public Safety Development Fees**

	<b>Current Fee (Jan. 1, 2012)</b>	<b>Proposed November 2013 (+/- current)</b>	<b>Proposed February 2014 (+/- current)</b>
<b>Residential</b>			
2+ Units	\$536	\$617 (+ \$81)	\$836 (+ \$300)
Single Unit (0-3 bedrooms)	\$675	\$630 (- \$45)	\$854 (+ \$179)
Single Unit (4+ bedrooms)	\$675	\$790 (+ \$115)	\$1,071 (+ \$396)
<b>Nonresidential</b>			
Commercial	\$1.49/SF	\$2.40/SF (+ \$0.91)	\$1.52/SF (+ \$0.03)
Office/Institutional	\$0.52/SF	\$0.94/SF (+ \$0.42)	\$0.59/SF (+ \$0.07)
Industrial/Flex	\$0.13/SF	\$0.32/SF (+ \$0.19)	\$0.21/SF (+ \$0.08)

Important Dates to remember:

April 1, 2014: Public Hearing on proposed fees, City Hall, 6 p.m.  
May 6, 2014: First Reading of Ordinance to adopt fees, City Hall, 6 p.m.  
May 13, 2014: Second Reading of Ordinance to adopt fees, City Hall, 6 p.m.

To schedule a presentation, submit questions or provide comments please contact:

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City of Flagstaff  
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# City of Flagstaff Public Safety Development Fee Program – Proposed Capital Programs

## Summary of Projected Fire Costs and Revenues

### Ten-Year Growth-Related Costs for Fire Facilities

Fire Facilities - Debt Service*	\$	1,187,929
Fire Vehicles	\$	803,968
Fire Apparatus - Debt Service*	\$	17,347
Fire Equipment - Debt Service*	\$	15,247
Fire Communications Equipment	\$	5,547
Fire Communications Infrastructure - Debt Service*	\$	53,881
IIP and Development Fee Study	\$	12,729
<b>TOTAL</b>	<b>\$</b>	<b>2,096,648</b>

[1] Debt Service costs shown above represent only the growth share of each debt obligation.

		<i>per Housing Unit</i>		<i>Per Square Foot of Floor Area</i>		
		<i>Single Unit</i>	<i>2+ Units</i>	<i>Commercial</i>	<i>Office</i>	<i>Industrial</i>
		\$508	\$474	\$0.89	\$0.34	\$0.12
		<i>Housing Units Added</i>		<i>Square Feet Added (1,000)</i>		
Base	2013	16,833	10,324	4,195	6,084	5,316
Year 1	2014	16,942	10,391	4,234	6,139	5,370
Year 2	2015	17,052	10,458	4,273	6,193	5,424
Year 3	2016	17,162	10,526	4,313	6,248	5,478
Year 4	2017	17,273	10,594	4,353	6,303	5,532
Year 5	2018	17,385	10,662	4,393	6,359	5,588
Year 6	2019	17,497	10,731	4,434	6,416	5,643
Year 7	2020	17,610	10,800	4,474	6,473	5,700
Year 8	2021	17,724	10,870	4,515	6,530	5,757
Year 9	2022	17,839	10,940	4,557	6,588	5,815
Year 10	2023	17,954	11,011	4,599	6,648	5,873
<i>Ten-Yr Increase</i>		1,121	687	404	564	557
Projected Fees =>		\$569,468	\$325,638	\$359,560	\$191,598	\$66,787
<b>Total Projected Revenues</b>		<b>\$1,513,051</b>				
Cumulative Net Surplus/(Deficit)		(\$583,597)				

Source: City of Flagstaff Public Safety Development Fees, Infrastructure Improvement Plan, and Land Use Assumptions, February 7, 2014

## City of Flagstaff Summary of Projected Police Costs and Revenues

### Ten-Year Growth-Related Costs for Police Facilities

Police Facilities	\$1,163,213
Police Vehicles	\$274,400
Police Communications Equipment	\$23,155
Police Communications Infrastructure - Debt Service*	\$77,646
IIP and Development Fee Study	\$11,981
<b>TOTAL</b>	<b>\$1,550,395</b>

[1] Debt Service cost shown above represents only the growth share of the debt obligation.

		<i>Per Housing Unit</i>		<i>Per Square Foot of Floor Area</i>		
		<i>Single Unit</i>	<i>2+ Units</i>	<i>Commercial</i>	<i>Office</i>	<i>Industrial</i>
		\$388	\$362	\$0.63	\$0.25	\$0.09
		<i>Housing Units Added</i>		<i>Square Feet Added (1,000)</i>		
Base	2013	16,833	10,324	4,195	6,084	5,316
Year 1	2014	16,942	10,391	4,234	6,139	5,370
Year 2	2015	17,052	10,458	4,273	6,193	5,424
Year 3	2016	17,162	10,526	4,313	6,248	5,478
Year 4	2017	17,273	10,594	4,353	6,303	5,532
Year 5	2018	17,385	10,662	4,393	6,359	5,588
Year 6	2019	17,497	10,731	4,434	6,416	5,643
Year 7	2020	17,610	10,800	4,474	6,473	5,700
Year 8	2021	17,724	10,870	4,515	6,530	5,757
Year 9	2022	17,839	10,940	4,557	6,588	5,815
Year 10	2023	17,954	11,011	4,599	6,648	5,873
<i>Ten-Yr Increase</i>		1,121	687	404	564	557
Projected Fees =>		\$434,948	\$248,694	\$255,127	\$139,281	\$47,640
<b>Total Projected Revenues</b>		<b>\$1,125,690</b>				
Cumulative Net Surplus/(Deficit)		(\$424,705)				

Source: City of Flagstaff Public Safety Development Fees, Infrastructure Improvement Plan, and Land Use Assumptions, February 7, 2014

## CITY OF FLAGSTAFF STAFF SUMMARY REPORT

**To:** The Honorable Mayor and Council  
**From:** Brad Hill, Utilities Director  
**Co-Submitter:** Ryan Roberts, Utilities Engineering Manager  
**Date:** 03/24/2014  
**Meeting Date:** 04/01/2014



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### TITLE:

**Consideration and Adoption of Resolution No. 2014-13:** A resolution on the Principles of Sound Water Management - Water Policies Chapter of the Utilities Integrated Master Plan. (***Approval of Water Policy by Resolution***)

### RECOMMENDED ACTION:

- 1) Read Resolution No. 2014-13 by title only
- 2) City Clerk reads Resolution No. 2014-13 by title only (if approved above)
- 3) Adopt Resolution No. 2014-13

### Policy Decision or Reason for Action:

The Principles of Sound Water Management - Water Policies Chapter of the Utilities Integrated Master Plan will provide the fundamental principles and guidelines for how the Utilities Division will achieve the goals and objectives outlined by City Council and upper City Management.

### Financial Impact:

None

### Connection to Council Goal:

Complete Water Policy  
Effective governance

### Has There Been Previous Council Decision on This:

City Council has reviewed and provided staff direction and comments on each of the water policies over numerous meetings since 2012. City Council used the Water Commission's policy document they adopted on November 15, 2012 as the basis for these policies.

### Options and Alternatives:

Adopt the Principles of Sound Water Management - Water Policies as written or modify their language or remand the policies back to staff to rewrite some or all of the policy language for future Council consideration.

**Background/History:**

Staff has worked with the Water Commission to define the concepts and agreed upon the language for each policy since 2008. At their November 15, 2012 Commission meeting, they approved the initial policy document and recommended staff to bring the policies forward to City Council for your consideration and adoption.

**Community Benefits and Considerations:**

Having an adopted set of water policies that are deliberative and well thought-out to guide the Utilities Division in the management, use and strategic planning of water, wastewater, reclaimed water and stormwater within the City of Flagstaff will be a great community benefit.

**Community Involvement:**

Collaborate. The community has had numerous opportunities to provide input during the Water Commission and City Council meetings since 2008.

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**Attachments:**     [Water Policy Redline](#)  
                             [Water Policy Final](#)  
                             [Resolution 2014-13](#)

# UTILITIES INTEGRATED MASTER PLAN

## Principles of Sound Water Management Water Policies Chapter



~~November 15, 2012~~April 1, 2014  
City of Flagstaff - Utilities Division

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# Acknowledgments

## City Council

Gerald W. Nabours  
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*Vice Mayor*

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Karla Brewster

Jeff Oravits

Scott Overton

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Brad Garner

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Jim McCarthy

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*Utilities Stormwater Manager*

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*Revenue Director*

Debby Valencia  
*Utilities Admin Assistant*

Robin Harrington  
*Utilities Program Manager*

Jim Cronk  
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Roger Eastman, AICP  
*Comprehensive Planning Manager*

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# Introduction

The primary purpose of the Utilities Integrated Master Plan - Water Policy chapter is to provide the fundamental principles and guidelines for how the Utilities Division achieves the goals and objectives outlined by City Council and upper City Management. The objective of these policies is to: preserve the public's trust in our water, sewer and stormwater systems through compliance with state and federal water quality, water management and flood plain management laws; guide strategic long-term planning; and demonstrate leadership in the stewardship of our limited natural resources. These policies emphasize the importance of water conservation, the protection of our natural environment and the development and maintenance of a redundant water supply that will assist in satisfying demand during a prolonged drought.

The principles of sound water management contained within these water policies will support and build on the policies contained within the Water Element section of the Regional Land Use and Transportation ~~plan~~ Plan and its subsequent updates. These policies will provide guidance to staff on how most effectively to develop, recommend and implement the numerous programs administered by the Utilities Division.

The Utilities Division is comprised of two Enterprise Funds; water, wastewater and reclaimed water are tracked individually in ~~is~~ one fund; the second separate fund is stormwater. The fiscal intent is to balance expenses (O&M and Capital) versus income from rates and capacity fees.

These policies refer to conducting periodic master planning efforts for water resources, and Utilities infrastructure including the water system, wastewater system, reclaimed water system, stormwater drainage and technology pertaining to the water and sewer system's operation and control, also known as a Supervisory Control and Data Acquisition or SCADA. All master planning efforts should take into account the Utilities Division's potential impacts, vulnerability and assessment of risk from climate variability and weather related effects. The goal should be to build in resilience in the operations of the Utilities Division in order to protect against the risk from climate variability and weather related impacts to the City's water supplies and infrastructure. The City undertook a Resiliency and Preparedness study in 2012 and the results and recommendations of this study should be considered in all master planning efforts.

The process to develop and adopt these water policies was a very public endeavor that was vetted through numerous meetings with the City's citizens advisory Water Commission and the Flagstaff City Council. The development of these policies initially started in 2008 and culminated with the Water Commission approving the policy language on November 15, 2012. City Council then took up the review and discussion of each policy. After eleven (11) meetings, the City Council adopted these policies by Resolution No. 2014-13 on April 1, 2014.

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## A. Finance

The City has an important responsibility to its citizens to carefully manage its ~~utilities~~ Utilities finances wisely, account for public funds, and to plan for the adequate funding of services desired by the public including water ~~and~~, sewer services, reclaimed water ~~services uses~~ and stormwater management. Therefore, the Water ~~& Sewer-Reclaimed Water~~ Utility and the Stormwater Utility shall be financially self-supporting enterprises with all costs associated with each operation to be funded from revenues derived from the sale of potable water or reclaimed water or the assessment of fees for sewer and stormwater system services.

### A1 Enterprise Funding: Water & Sewer Utility

Policy A1.1 The annual payment for debt service should not exceed 20% of total annual Operating Revenues.

Policy A1.2 The Water ~~and~~ ~~-Sewer-Reclaimed Water~~ Utility shall have a goal of maintaining more than 25% of the total estimated annual Operational Revenues in reserve for known future obligations plus an allowance for unbudgeted contingencies. This policy would not include Federal Support for disaster relief.

Policy A1.3 In the event that the Mayor and City Council determine that there exists the need to set aside a minimum amount of water to be sold at a reduced rate or to grant some other forms of subsidy for users within the City's service area, the costs of such subsidies shall be from a non-utility source.

Policy A1.4 The City shall not enter into a development agreement for any purpose that permits the developer to pay (or otherwise offset) reduced water rates and/or reduced capacity fees unless such rates and/or fees are collected from a non-utility source.

Policy A1.5 The City's policies~~-~~ on the collection of payments for water and sewer capacity fees, water meter fees, service charges and other fees shall be applied consistently and as follows:

Strategy A1.5a A customer must provide proof that either a building or grading permit application was submitted to the Community Development Division prior to paying any fees.

Strategy A1.5b All fees must be paid in full at the time of payment (City Code).

Strategy A1.5c If fees are scheduled to change, the customer has until one business day prior to the scheduled change to pay all fees under the current fee schedule. A customer may not use proof of an application submission prior to the fee schedule change to

pay fees under the previous fee schedule after the schedule change date.

Strategy A1.5d If a customer pays all fees but does not install the water meter and connect to City services before the building permit expires, the customer is subject to the latest fee schedule and any increase in fees will be assessed on the location. A decrease in fees will not be recalculated and refunded. The City should make an effort to contact the customer prior to the expiration of the building permit.

Strategy A1.5e If a customer changes the size of the water meter after all fees are paid, the customer is subject to the latest fee schedule and any increase in fees will be assessed on the location.

Strategy A1.5f All capacity fees are non-refundable and non-transferable from one parcel to another parcel.

## **A2 Enterprise Funding: Stormwater Utility**

Policy A2.1 The Stormwater Utility shall collect revenues from properties with impervious surfaces according to an Equivalent Rate Unit (ERU) basis (See definition that follows). The Stormwater Utility shall have a goal of maintaining more than 10% of the total estimated annual Operational Revenues in reserve for known future obligations plus an allowance for unbudgeted contingencies.

Policy A2.2 The Stormwater Utility shall— issue runoff credits for properties implementing eligible stormwater catchment systems as further described in the stormwater manual (City Code).

## **A3 Rate Design Elements: Water & Sewer**

Policy A3.1 Water and, sewer ~~and reclaimed water~~ rates should be set on a cost-of-service basis. Commodity charges should reflect the costs across all customer classes. Rate structures should be designed with the goal of encouraging water conservation. The design of recommended rates should include provisions that will provide a minimum of 25% of revenues from fixed costs and the remainder from commodity rates. The design should also anticipate a balance between conservation (commodity charges) and revenue stabilization (fixed rates) (partially in City Code).

Policy A-3.2 Water and, sewer ~~and reclaimed water~~ rates shall be internally reviewed annually. Any anticipated changes in the rate structure should be implemented in a timely manner in order to avoid large-scale shifts in rates. A formal rate study will be performed every three (3) years.

| Policy A-3.3 Water ~~and~~, sewer ~~and reclaimed water~~ fixed and variable rates for customers located outside the City limits, including standpipe customers, shall always be over and above the charges to customers within City limits and will be set during a formal rate study as per Policy A.3.2. The purpose of the increased rates is to capture those hidden costs that customers within the City limits pay and non-residents do not such as fixed costs (e.g., water meter charges).

| Policy A-3.54 Capital projects which would require the utility to take on debt greater than Policy A1.1 are not financially sustainable due to their potential impact on existing rates and capacity fees. Financing for large projects may require funding support from such sources as the federal government, state government, new taxing district or authority, public-private partnership, sales tax, revenue bonds or a combination of these sources.

#### **A4 Private Water Company Acquisition**

| Policy A-4.1 The City of Flagstaff shall have a goal of becoming the sole retail water, sewer and reclaimed water provider within its incorporated boundaries. From time to time, the City may have opportunities to purchase other existing water delivery or sewer collection systems adjacent to or near the City's existing service area. The following criteria will be used to evaluate such opportunities:

Strategy A4.1a The purchase must prove to be beneficial to the customers of the Utility.

Strategy A4.1b The private water company must possess sufficient water supplies of sufficient capacity that meet applicable federal and state drinking water quality standards.

| Strategy A4.1c The components of the private water company's infrastructure (water production, pipelines, fire hydrants, etc.) ~~should must~~ be constructed to existing City utility standards or be upgraded to those standards prior to acquisition.

| Strategy A4.1d The purchase of the private water company ~~must-should~~ not result in a net increase of costs to existing City water ~~and~~, sewer or ~~reclaimed water~~ customers.

Strategy A4.1e The new service area shall be within existing City limits or be annexed into the City of Flagstaff prior to purchase.

Definitions:

**Cost Recovery:** The collection of sufficient revenues from charges, rates and capacity fees to meet the present and future operational, maintenance, capital and debt service obligations of the ~~utility~~ Utility

**Cost of Service:** An evaluation process by which revenue requirements are used to generate a system of fair and equitable costs in proportion to the service received for each user classification.

**Equivalent Rate Unit (ERU):** The basic unit for the computation of stormwater service fees. All property in the City is subject to the periodic stormwater management utility service charge. The fee is based on number of ERUs, each ERU is equal to 1,500 square feet of impervious area.

**Fund Balance:** An account defined as the difference between the assets and liabilities of a fund. It is used as a measure of the amount available to budget or spend in the future.

**Future Obligations:** Previously identified capital improvement projects, including those approved capital projects contained in the five-year Capital Improvement Program.

**Operational Revenues:** Income derived from sources related to the ~~utilities~~ Utilities everyday business operations. Operational revenues consist of revenues from sales of a commodity (water, sewer, reclaimed water) and miscellaneous service revenues. For example, water sales and installation services generate on-going operating revenue, whereas the sale of City property is considered to be an unexpected, or "one-time", event.



## B. Water Resource Management

### B1 Use of Renewable Water Resources

Maximizing the use of renewable water supplies is an important water management tool to minimize the long-term impacts of over-drafting a community's groundwater resources. Examples of local renewable water supplies for the City of Flagstaff include surface water from Upper Lake Mary, spring flow from the Inner Basin, groundwater equivalent to net natural recharge, and directly delivered reclaimed water. Utilizing renewable water resources as the City's primary supplies will not only help Flagstaff be sustainable but it will also save groundwater for times when ~~some of these~~ surface water supplies are unavailable or severely limited due to prolonged drought conditions.

Policy B1.1 The City should maximize the use and delivery of local renewable water supplies that are available in any given year.

Policy B1.2 The City should ~~consider~~ developing a diverse renewable water supply portfolio to ensure redundancy in the event one supply is unavailable or severely limited due to prolonged drought conditions. A diverse water supply ~~shall consider portfolio~~ includes the following:

Strategy B1.2a The different types of water supplies (e.g. groundwater, surface water and reclaimed water) and the different types of production infrastructure (e.g. wells, water treatment plants) necessary to treat and deliver each type of water supply.

Strategy B1.2b The temporal aspect of the water supply for redundancy. For example, will the redundant water supply be available for a long time (i.e. groundwater) or for a shorter time frame (e.g. surface water in Lake Mary). When considering production infrastructure (i.e. wells), the redundancy should be available permanently.

Strategy B1.2c The timing and costs associated with maximizing these renewable resources.

### B2 Water Adequacy – Adequate Water Supply Program

This policy relates to the City of Flagstaff maintaining its Designation of Adequate Water Supply (Designation) by the Arizona Department of Water Resources (ADWR). The primary purpose to maintain the Designation is to ensure that all new development within City limits has a proven a 100-year water supply prior to construction. The benefit to the community is to ensure the public's trust in the City's water resources and provide for long-term economic vitality and sustainability. This policy relates strictly to the tracking of and commitment to water resources and does not address the infrastructure requirements to

deliver and utilize the water supply. Infrastructure requirements are addressed in Policy G.1 – Utilities Master Planning.

Policy B2.1 Communication: The Utilities Division will provide the primary point of contact for all staff-level communication with both the ADWR and U.S. Bureau of Reclamation on water resources and water conservation regulatory related issues.

Policy B2.2 Adequate Water Supply Program: the City shall develop a water management program ~~to come into and remain in compliance that complies~~ with the Adequate Water Supply Program by demonstrating, at a minimum, that its water supplies are physically, legally and continuously available for at least 100-years.

Strategy B2.2a The Utilities Division shall conduct hydrologic studies necessary to estimate its 100-year volume of water supplies considering groundwater, surface water and reclaimed water per state regulations. These studies should at a minimum include partnering in the development, maintenance and update of a computerized groundwater flow model of the Coconino Plateau's regional hydrology in order to assist in evaluating the sustainability of the City's groundwater supplies over the long-term, their resilience from drought and to support the City's Designation of Adequate Water Supply. These studies should be reviewed and updated on a regular basis as more technical information becomes available.

Strategy B2.2b The Utilities Division will use data developed within the Integrated Utilities Master Plan - Water Resources Chapter (Policy F.1) to estimate the City's water demand needs at build-out.

Strategy B2.2c The City's water supplies, as determined by Policy B.2.2a, shall be dedicated to all existing developed parcels, new projects developed in accordance with their zoning designation on the Zoning Map, and to new Subdivision Final Plats on a first come, first serve basis. The City should also consider the economic value of water and recommend a pre-defined volume of water to set-aside that is sufficient to encourage and maintain economic development and vitality.

Strategy B2.2d For each new Subdivision Final Plat, Zoning Map Amendment or Major/Minor Amendment to the Regional Plan an estimate of the annual average and peak day volume of water for the development at built-out will be provided. The projected annual average water needs shall be calculated using the City of Flagstaff Engineering Standards and/or the water use metrics

contained within the Utilities Department Integrated Water Master Plan – Water Resource Chapter. The build-out estimates, when appropriate, should consider additional water conservation measures that may reduce the development's projected annual average water needs into the future.

Strategy B2.2e The Utilities Division will commit, track and set aside with different time periods the necessary annual average and peak day water supply for all new Subdivision Final Plats and new projects developed in accordance with their existing zoning designation on the Zoning Map. Annual average and peak day water supply for Major Amendments shall also be tracked but not committed or set aside.

Strategy B2.2f The developer will be required to obtain a building or grading permit within the specified timeframes outlined below or risk losing the committed water resources:

- Subdivision Final Plat – there will be no time limit on the reservation of the water resources committed for a the-subdivision final plat approved by the City Council as long as the City maintains its Designation of Adequate Water Supply with the Arizona Department of Water Resources. The reservation of water resources is not transferrable to any other project or land.
- Vacant Property Seeking Development Approval (e.g. Site Plan Review) – for all new development proposed consistent with the existing zoning as designated on the Zoning Map, there will no time limit on the reservation of the water resources committed as long as the City maintains its Designation of Adequate Water Supply with the Arizona Department of Water Resources.
- Zoning Map Amendment and Minor Amendments to the Regional Plan – for such new development, water resources will only be committed for no longer than the time frame associated with the zone change approval within which the applicant has to commence construction subject to the conditions stipulated by the City Council (typically 2-years) as long as the City maintains its Designation of Adequate Water Supply with the Arizona Department of Water Resources.
- Major Amendments to the Regional Plan – there will be no reservation of committed water resources for these amendments (i.e., water resources will be tracked but not committed or set aside).
- This Strategy should only be applicable to commercial, industrial and multi-family developments and those residential subdivisions that contain six (6) or more individual lots. This policy is not applicable to a single lot land owner within a pre-existing built-out subdivision.

Strategy B2.2g The Community Development, Economic Vitality and Utilities Divisions will coordinate regarding the City's available uncommitted water resources that can be allocated to priority developments shown in the voter approved Regional Plan. This will occur before approving any development agreement, new extension, variance, or other changes to any final site or construction plans that results in the allocation of water beyond that what was originally approved.

Policy B2.3 Compliance: The City shall apply for and take all necessary steps to maintain its status as a Designated water provider as determined by the ADWR. Additionally, City of Flagstaff will submit the committed demands for each Subdivision Final Plat and permits granted for existing lot developments on an annual basis to the ADWR as currently required by law.

### **B3 Water Quality**

The mission of the City of Flagstaff's Utilities Division is to professionally and cost effectively provide water, wastewater and stormwater services. This is accomplished by being recognized as a leader of excellence in water utility services. Drinking water safety is a primary concern of the Utilities Division; safety shall be achieved by utilizing technology and qualified staff members to monitor production systems, sample the distribution system and evaluate opportunities to continually enhance the program while being cost effective to our customers. The City shall develop water quality programs that provide potable water which is treated, tested and safe for Flagstaff citizens, businesses and visitors and meets all current water quality regulations.

Wastewater quality shall be established through an active pretreatment and monitoring program which ensures the safety of the City's infrastructure and adherence to regulations.

#### **Water**

Policy B3.1 The City shall develop water treatment facilities which:

- a. Provide quality water which meets current federal regulations,
- b. Consider operational costs and water quality standards when determining treatment options, and
- c. Consider aesthetic characteristics such as taste, odor and residual chlorine in the design process of treatment options.

Policy B3.2 The City shall maintain monitoring schedules which provide:

- a. Monitoring at each facility, both on-site and remotely, if applicable,
- b. Sampling schedules designed to monitor as early in the compliance cycle as possible,

- c. Sampling appropriately within the distribution system,
- d. Sampling results shared with residents in a timely fashion, and
- e. Compliance with Federal, State and Local regulations for each parameter of interest tested.

Policy B3.3 The City shall maintain a compliance laboratory for both operational and compliance purposes, which provides rapid response to operations for routine testing where:

- a. Parameters that are tested shall minimize turn-a-round time,
- b. Parameters that are tested shall improve operational efficiency and effectiveness,
- c. Parameters that are tested will be cost effective for regulatory compliance,
- d. Verification of testing completed and each result will be in compliance with Federal, State and Local regulations,
- e. Water quality sampling data shall be managed using a computerized database management system to facilitate tracking, trending and archival of the information, and archival of the information.
- f. All laboratories used by the City shall be certified by the Arizona Department of Environmental Quality (ADEQ) for the parameters that are tested.

Policy B3.4 The City shall maintain a cross connection program which requires all backflow devices within the City, except single family homes unless equipped with a fire sprinkler system, to be tested annually and in compliance with Federal, State and Local regulations. All testing and permitting costs will be the responsibility of the owner (City Code).

### **Wastewater**

Policy B3.5 The City shall maintain a pretreatment program which adheres to U.S. Environmental Protection Agency (USEPA) requirements. This program shall perform the following at a minimum:

- a. Maintain an annual inspection, monitoring and sample schedule which protects the City's infrastructure,
- b. Ensure businesses do not discharge wastes which can lead to sanitary sewer overflows, and
- c. Ensure businesses do not discharge waste which can compromise the collection infrastructure, treatment facility, impair operators or cause reclaimed water to fail to meet permit requirements.

Policy B3.6 The City shall develop wastewater treatment facilities which:

- a. Adhere to Aquifer Protection and Arizona Pollutant Discharge Elimination System permits issued by the ADEQ,
- b. Provide the best use of reclaimed water while ensuring compliance to the facility's regulatory permit(s),
- c. Allow the greatest flexibility in plant operations,
- d. Minimize operational costs, and
- e. Provide reclaimed water at a minimum quality of A+.

Policy B3.7 The City shall develop appropriate emergency response plans that:

- a. Coordinate with multiple agencies to facilitate communication and minimize challenges in the event of an emergency,
- b. Develop cooperative agreements with surrounding organizations or communities, if appropriate, and
- c. Review facility emergency operations plans on an annual basis to ensure appropriate response.

## C. Reclaimed Water

The State of Arizona is recognized as a national leader in the management and regulation of reclaimed water which has led to its increased use across the State. The Governor's Blue Ribbon Panel Report on Water Sustainability published a report in 2010 that states reclaimed water has significantly increased in use over the past two decades and now represents 3% of the total water used throughout the State in 2012. ~~During this same time period, t~~The City of Flagstaff is known within Arizona as a leader in reclaimed water use which and it now represents 20% of total water used within the City. In 2014, the Governor's office and the Arizona Department of Water Resources published a report titled "Arizona's Next Century: A Strategic Vision for Water Supply Sustainability". That report identified the continued commitment to conservation and expanding the reuse of reclaimed water as the State's second highest strategic priorities towards achieving water supply sustainability. The treatment, delivery and use of reclaimed water is a significant water management tool and will continue to play a ~~significant key~~ role in the sustainability within the City of Flagstaff of our community today and into the future.

### Definitions

- i. Direct Reuse: ~~i~~n accordance with Arizona Administrative Code (A.A.C.) R18-9-701, Direct ~~Reuse-reuse~~ means the beneficial use of reclaimed water for a purpose allowed by ~~S~~state law. The delivery of this water supply is accomplished via a separate distribution system, commonly colored purple. The uses of Class A+ reclaimed water that are common to Flagstaff and are listed in A.A.C. R18-11-309-Table A include: residential or school ground landscape irrigation, irrigation of food crops, toilet and urinal flushing, fire protection systems, snowmaking, golf course irrigation, dust control, and street cleaning. Direct reuse does not include water for potable consumption at this time. However, when technology, regulations and public acceptance allow, Direct reuse may include water for potable consumption.
- ii. Groundwater Recharge: ~~in~~In accordance with Arizona Revised Statutes groundwater recharge is conducted utilizing either a Constructed (§45-802.01.4) or a Managed (§45-802.01.12) Underground Storage Facility (USF) that has the intent to store water underground. In general, a Constructed USF is an engineered and designed recharge facility while a Managed USF simply utilizes the natural channel of a stream (e.g., Rio de Flag) to recharge the groundwater aquifer.
- iii. Indirect Reuse: ~~i~~n accordance with industry standards and for the purposes of this policy, Indirect Reuse means the use of reclaimed water that has been previously recharged and stored underground; that has been co-mingled or mixed with the natural groundwater system; then withdrawn or recovered via



water supply wells. This co-mingled mix of water meets all Safe Drinking Water Act requirements.

- iv. Reclaimed Water: ~~in~~In accordance with A.A.C. R18-9-701, Reclaimed water means water that has been treated or processed by a wastewater treatment plant or an on-site wastewater treatment facility.
- v. Recovery: ~~in~~In accordance with Arizona Revised Statutes, recovery of stored water is the withdrawal of a water supply (e.g., reclaimed water) that has been previously recharged underground pursuant to applicable state law (§45-831.01 - §45-836.01).

## C1 Charges

Policy C1.1 The City shall have a goal of a minimum of full Cost Recovery for reclaimed water that is delivered within and outside of the City's incorporated limits. To the extent these ~~rates~~ charges discourage the use of reclaimed water the ~~charges rate of for~~ reclaimed water shall be adjusted to encourage its use. The adjusted ~~rate~~ charge will be subsidized by the water rate customers.

## C2 Water Quality and Education

Policy C2.1 The Utilities Division should design and construct water reclamation facilities that treat and produce reclaimed water to the highest water quality standards permitted by Federal and State law. Reclamation facilities shall be designed to permit the use of reclaimed water for either Direct Reuse or Indirect Reuse and shall be monitored in accordance with each facility's permit. Additionally, the Utilities Division should evaluate the economic costs, feasibility and environmental and health-risk benefits of implementing ~~additional treatment alternatives that are beyond existing laws~~ new technologies as may be appropriate from time to time. (partially in City Code)

Policy C2.2 The Utilities Division should remain engaged in regional, state and national discussions on the use and regulation of reclaimed water, ~~including~~ regarding the management and quality of the reclaimed water supply and the state of the science of treatment technologies. This should be accomplished by remaining active at a minimum in the national WaterReuse Association and its Arizona chapter (WaterReuse Arizona), Water Environment Federation and the national American Water Works Association and its Arizona section (AZ Water).

Policy C2.3 The Utilities Division should maintain an educational program that focuses on reclaimed water, its safety, quality, public perception and beneficial uses.



### **C3 Reclaimed Water Agreements**

Policy C3.1 The Utilities Division ~~should~~shall require each user to have a direct delivered Reclaimed Water Agreement which may be modified from time to time by agreement of the parties. These Agreements should contain at a minimum; ~~customer~~user name, address, place of use, point of delivery, delivery schedule (i.e., maximum peak day, maximum monthly and annual volume), ~~commodity rate~~price, termination date and other applicable information and contract terms as appropriate. Reclaimed water will be considered and allocated ~~allocations will be based upon~~ a first come: first served basis, but entering a Reclaimed Water Agreement shall remain solely within the City's discretion. Any proposed modifications to the terms of an existing Reclaimed Water Agreement (e.g., change of intended use, place of use, delivery schedule or other modifications) will require the applicant to obtain a new Reclaimed Water Agreement which may be entered into or denied within the City's sole discretion. (partially in City Code)

### **C4 Reclaimed System Capacity**

Policy C4.4 The Utilities Division will review requests for reclaimed main extensions using the following criteria:

Strategy C4.4a Determine if capacity is available and stipulate any necessary requirements for the extensions. Any new service or change in use that will result in increased demands for reclaimed water must consider that the change may require additional improvements to the City's reclaimed water system at the owner's/developer's expense. (City Code)

~~Strategy C4.4b Reclaimed water availability will be determined in Policy C4.5~~

Policy C4.5 Reclaimed Water System Capacity Allocation Program: The Utilities Division shall track and monitor existing and proposed peak day and average annual reclaimed water deliveries in order to prevent exceeding the City's ability to meet contracted for demands. When system capacity has been approached or there are supply limitations for any reason, the Utilities Director will stop issuing any new Reclaimed Water Agreements until such time that additional reclaimed water supplies are available. In the event of a reclaimed water shortage, the shortfall will be spread evenly equitably across all customers.

## **C5 Out of City Deliveries**

Policy C5.1 Charges for out of City reclaimed water deliveries shall always be over and above the charges to customers within City limits as defined in Policy C1.1.

Policy C5.2 The City's general policy for providing reclaimed water deliveries to new customers outside the City is within the City's discretion.

## **C6 Recharge and Recovery**

In order to ensure groundwater supplies are sustainable and resilient to the impacts from prolonged drought, the City should be involved in the recharge of its unused renewable water supplies. In addition, the City should plan and implement strategies to recover those renewable water supplies that are stored underground to meet its customers contracted for or long-term water needs.

Policy C6.1 The Utilities Division should develop a Groundwater Recharge & Recovery program that is in compliance with applicable State laws (§Title 45 Chapter 3.1 Underground Water Storage and Replenishment). The purpose of this program would be to optimize the management and use of the City's reclaimed water.

Policy C6.2 The City should continue to develop local water recharge and recovery initiatives. These initiatives should:

- a. Maximize the storage of the City's unused reclaimed water underground (recharge) by developing, constructing and permitting City-owned Underground Storage Facilities, where appropriate, through the Arizona Department of Water Resources.
- b. Capture and recover the stored reclaimed water through water supply wells located down-gradient and permitted as Recovery Wells through the Arizona Department of Water Resources.

Policy C6.3 The City should remain engaged, informed and involved in state-wide and regional discussions regarding groundwater use, recharge and recovery.

## **C7 Uses, Allocation and Priority**

Policy C7.1 The Utilities Division should continue to recommend updates to policies and ordinances that encourage the Direct Reuse of reclaimed water where appropriate and consistent with State and Federal laws.

Policy C7.2 Golf courses, other large turf areas (e.g., schools, parks, etc) and amenity lakes shall use Direct Reuse of reclaimed water.

Policy C7.3 The priority uses or future allocations of reclaimed water are:

Renewal of Reclaimed Water Agreements with Existing Customers/Users. First priority shall be given to those ~~users~~ ~~customers~~ that already have an valid Reclaimed Water Agreement ~~agreement~~ for the delivery of reclaimed water ~~with the City~~. ~~If requested by such existing user, the~~ Utilities Division shall renew a Reclaimed Water Agreement ~~provided that any existing customer's agreement for reclaimed water delivery in the event they request continued service and they have met~~ all applicable financial and legal requirements of City, State and Federal laws have been met. These Agreements shall be binding upon any successors and assigns who acquire the property that is benefitted by the Reclaimed Water Agreement and shall not be transferred or assigned without the City's written consent, which shall not be unreasonably withheld.

Water Conservation. Conserve potable water through the Direct Reuse of reclaimed water by converting existing uses of potable water to reclaimed water, where allowed by State Law.

Public Benefit. The Direct or Indirect Reuse of reclaimed water should be encouraged as a significant water management tool to sustain or promote economic vitality, augment the City's water supply (e.g., Groundwater Recharge and Recovery) and ~~sustain~~ support contracted for deliveries for riparian habitat, wetlands or ponds.

Examples of such Direct and Indirect Reuse of reclaimed water are listed in alphabetical order and in no specific order of priority:

~~ADEQ approved uses of reclaimed water~~ Uses of reclaimed water that are identified within and approved by the ADEQ (i.e., A.A.C. R18-11-309. Table A).

Amenity Lakes or Ponds: Direct Reuse of reclaimed water to fill and maintain amenity or decorative lakes that have public access.

Commercial, Industrial and Manufacturing: Any commercial, industrial or manufacturing operation that uses reclaimed water for its processes.

Construction/Street cleaning: Direct Reuse ~~Use~~ of reclaimed water for dust control or street sweeping on construction projects or City streets whether by private company, federal, State DOT or municipal use. This can be either through approved hydrant use or hauled water.

| Landscaping: Direct Reuse of reclaimed water for irrigation of turf and other types of landscaping associated with public parks, cemeteries, schools, ball fields, golf courses.

Managed or Constructed Underground Storage (or recharge) Facilities: Storing reclaimed water underground for future use within permitted groundwater recharge facilities that are located within or adjacent to the Rio de Flag.

Recovery: Use of a City water supply well to withdraw or recover a mixed, co-mingled source of reclaimed water with groundwater that has been previously stored underground pursuant to applicable State law.

| Riparian habitat, wetlands & ponds: Use of reclaimed water to support areas of vegetation that is dependent on saturated or moist soils; for example, contracted for reclaimed water that supports vegetation along the banks of the Rio de Flag which is distinct from the predominant or typical landscape type.

## D. Water Conservation

The City of Flagstaff Water Conservation program provides customers with an educated awareness of water as a valuable resource. This program enables water use efficiency and less demand on our water supply resulting in reduced capital and operating costs for water production and wastewater treatment. Conservation also results in reduced energy needs for water production by reducing the amount of energy required to deliver water to our customers. A comprehensive and consistent water conservation and usage policy shall be developed that would include the best use of all the City's water resources while assuming a leadership role for Water Conservation in the community.

### D1 Education

Policy D1.1 The Water Conservation Section shall maintain a year-round water conservation program that provides outreach to its citizens. Program administrators shall participate and provide educational information at various events in the community and provide updates through the City of Flagstaff's website and other appropriate venues. The program shall promote Xeriscape and not "zeroscape" in landscape design.

### D2 Water Use Restrictions and Regulatory Compliance

Policy D2.1 the Water Conservation Section develops and maintains an ordinance that shall require less water consumption per capita yet enables the consumer to maintain an aesthetically attractive, comfortable and clean environment.

Strategy D2.1a The Water Conservation Section shall also partner with the Community Development Division and the Utilities Stormwater Section to ensure compliance with the codes these programs enforce. The Water Conservation program shall collaborate with these programs to develop additional strategies or programs to achieve future reduction in per capita water use.

Strategy D2.1b The Water Conservation Section shall develop and maintain Strategy Levels in the ordinance that defines the severity of each water shortage level and required cutbacks with pre-defined criteria regarding when each level goes into effect. (City Code)

Strategy D2.1c The Water Conservation program shall track water demand and consumption. This information shall be updated on a regular basis to be used in a variety of reports.

### **D3 Incentive Programs**

Policy D3.1 The Water Conservation Section should consider and develop a rebate program in the form of monetary credit on a customer's water bill in order to encourage the further conservation of the City's water supplies.

Strategy D3.1a The criteria used to determine program products for rebates shall include at a minimum the water savings compared to the cost of implementing a specific water savings device (e.g. \$/gallons of water saved per unit device).

Strategy D3.1b Metrics related to the water conservation rebate program shall be calculated to determine effectiveness of such programs and assist in developing future program parameters. Devices that created the greatest water savings will be used in future rebate programs. Ineffective devices will be replaced with ones that yield better water savings.

### **D4 Regional Participation**

Policy D4.1 The City of Flagstaff should participate in local and state-wide groups that promote water conservation.

Strategy D4.1a The City of Flagstaff shall partner with the appropriate local events that include water conservation.

Strategy D4.1b The City of Flagstaff shall attend informational meetings. That includes, but is not limited to, Arizona Department of Water Resources, InfoShare, and ReNEWS.

### **D5 Rainwater Harvesting**

Policy C5.1 The Water Conservation program shall work closely with the Stormwater Section to insure the same goals of conserving water are addressed in each program and are supportive of each other.

### **D6 Support of Riparian Areas**

Policy D6.1 The Water Conservation program should establish ~~criteria~~ guidelines on how ~~unused~~ reclaimed water ~~will~~ may be contracted for and be used for the benefit of the environment and support of riparian ~~habitat~~ needs into the future.

## D7 Drought Planning

The City's renewable water supplies are often impacted by short-term changes in local precipitation and would be severely impacted by any long-term changes in regional climate. The City will maintain a Drought Contingency Plan within its Water Conservation ordinance in order to establish policies, rules and penalties to be implemented when a water deficiency condition has been declared. (partially in City Code)

Policy D7.1 The City shall maintain a Drought Contingency Plan and it should:

- Coincide with the Water Resources Master Plan,
- Establish strategies and their goals, develop triggers for when each strategy shall be implemented,
- Provide for authority and enforcement,
- Communicate the difference between water conservation as a lifestyle and demand reduction as a drought response, and
- Contain clear procedures on how the plan will be implemented, including provisions for informing the public.

Policy D7.2 The Drought Contingency Plan goals should be:

- To protect public health and safety,
- Aid in community-wide economic security,
- Provide sufficient water to meet the needs of the City of Flagstaff water customers,
- Allocate the impacts and hardships caused by drought equitably,
- Minimize the disruption to the economy so that jobs are protected and regional economic stability is preserved, and
- Provide options for updating or amending the Drought Plan by the City Council.

Policy D7.3 The Drought Contingency Plan should define and establish triggers and water use restriction strategies.

- Consider defining multiple levels of water use restriction stages and strategies to reduce water consumption.
- Consider defining triggers based upon infrastructure limitations.
- Consider defining triggers based upon hydrologic supply limitations.

## **E. Stormwater**

The responsibilities of the Utilities Stormwater Section are categorized into stormwater quantity (flood control), stormwater quality, and watershed management. Some activities, such as Low Impact Development (LID), which captures stormwater for reuse and infiltration, address both water quality and quantity.

In general, the Stormwater Section's activities include a variety of mandated compliance programs including the FEMA Flood Insurance Program and the EPA mandated National Pollutant Discharge Elimination System (NPDES). The Section also manages Master Planning efforts, enforces stormwater design standards, and responds to drainage complaints received from citizens. The Section delivers a capital improvement program for drainage infrastructure improvements as well as managing a drainage maintenance program.

### **E1 Compliance**

Policy E1.1 The City shall make necessary and timely changes to ensure full compliance with Federal Emergency Management Association (FEMA) floodplain regulations, and the National Pollution Discharge Elimination System (NPDES) regulations administered by both the U.S. Environmental Protection Agency (USEPA) and the Arizona Department of Environmental Quality (ADEQ). (City Code)

Policy E1.2 The City will maintain contact with FEMA, USEPA, and ADEQ to remain up-to-date on pending and adopted regulatory changes, ensure that changes to City policies and ordinances necessary to remain in compliance are adopted and implemented, and provide necessary training and public outreach to customers to assist with compliance. (City Code)

### **E2 Flood Control**

Policy E2.1 The City will continually strive to improve the ranking in the Community Rating System (CRS) in order to provide discounted flood insurance for the community.

Policy E2.2 The City will continually strive to improve the accuracy of Flood Insurance Rate Maps

Policy E2.3 The City will partner with the Emergency Operations Center (EOC), Public Works Streets Section and other emergency responders to develop detailed policies and procedures for local and regional flood response scenarios.



Policy E2.4 By working with the Public Works Streets Section, ensure proper inventory of the drainage infrastructure and provide necessary funding for future years based on system growth and need.

### **E3 Stormwater**

Policy E3.1 The City shall conduct drainage master planning for all major (regulatory) watercourses in the City, adopt development standards that adhere to the results of the Master Plans, and explore funding sources for the construction of prioritized master plan projects. (partially in City Code)

Strategy E3.1a All public and private drainage infrastructure proposed to be constructed on watercourses included in the completed Master Plan should be constructed according to the results and recommendations within the Master Plan.

Strategy E3.2b The City ~~shall~~should work with the US Army Corps of Engineers to secure funding for completion of the project that addresses including but not limited to the upper Rio De Flag and Clay Avenue watercourses.

Policy E3.2 The City's Stormwater Management Design Manual shall contain current design and inspection requirements for private development drainages. (City Code)

Policy E3.3 The City shall respond to drainage complaints within 24 hours of receipt and provide timely resolution.

Policy E3.4 The City's shall provide appropriate credits for the stormwater quantity and quality improvements outlined and periodically updated in the Stormwater Credit Manual. (City Code)

Policy E3.5 The City shall promote the direct use of stormwater as a water conservation tool and develop best management practices to capture and use stormwater in a variety of ways for a variety of uses.

Policy E3.6 Drainage improvements should be designed to promote infiltration, when practical. The use of concrete and closed conduits shall be discouraged. (partially in City Code)

Policy E3.7 The City shall develop and maintain a capital drainage improvement program (DRIP) and work cooperatively with the Public Works Streets Section to complete small-scale drain improvements.

Policy E3.8 The City shall continually seek to evaluate the feasibility of alternative, less costly approaches to stormwater management. Such approaches may include exploring Green Streets as a solution for drainage problems, creating LID demonstrations or pilot projects as part of any City funded projects, and developing incentives for LID demonstrations and pilot projects on private developments.

## **E4 Watershed Management**

Policy E4.1 To protect the City's water supply and quality, the City will actively seek to encourage implementation of watershed restoration projects both within City boundaries and on lands owned or managed by private and public entities.

Strategy E4.1a The City shall partner with the "Stream Team," whose mission is to identify opportunities for restoration maintenance and preservation of streams, washes, and open channels within City limits, and work with neighborhoods, community representatives and other jurisdictions to ensure successful implementation of watershed restoration projects.

Strategy E4.1b The City will partner with a variety of private and public entities to support the implementation and maintenance of watershed restoration programs on parcels beyond the ~~city~~-City limits that have a benefit to the City.

## F. Infrastructure

### F1 Water System Capacity Redundancy

Surface water supplies can be subject to interruptions and reduced or unavailable supply for a variety of reasons including drought, water quality, or infrastructure failure. Groundwater supplies can also be subject to interruptions for several reasons, including water quality and infrastructure failure. Therefore, having redundant (back-up) water supply sources and the necessary infrastructure to deliver that supply is good business practice. The purpose of requiring redundancy in our infrastructure is to ensure reliable water delivery to municipal customers in the event of a disruption of the City's primary water supply.

Policy F1.1 The City should develop system infrastructure as follows:

- Strategy F1.1a The water system must be designed to provide an uninterrupted supply of water during peak hourly demand with a minimum supply pressure of 40 pounds per square inch (psi) at the supply point for Maximum Probable Development (MPD) and for an economical life of not less than 50 years; (City Code)
- Strategy F1.1b The public water supply system must be designed for the MPD of the entire subdivision and any undeveloped land beyond and in accordance with the zoning code.

Policy F1.2 The City should maintain a diversified water resource portfolio in order to maintain an adequate redundant water supply by constructing the necessary infrastructure to treat, deliver and interconnect the City's diverse water portfolio.:

- ~~Strategy E1.2a Maximizing the use of reclaimed water on areas that are appropriate within the City. This may include direct delivery of reclaimed water or recharge of our underground aquifers.~~
- ~~Strategy E1.2a Constructing the necessary infrastructure for the transmission of treated water between various water supply sources.~~

Policy F1.3 The City should maintain sufficient water storage in order to maintain an adequate redundant water supply by considering the following:

- Strategy F1.3a The basic objectives of water storage facilities are to help meet peak flow requirements, to equalize system pressures, and to provide emergency water supply, such as fire flow requirements. (City Code)
- Strategy F1.3b Water storage capacity shall be met by use of ground or subsurface mounted types of storage tank facilities installed at an elevation above the upper zone boundary elevation of that portion of the distribution system it serves. Elevated water storage can also be referred to as gravity storage tanks or

reservoirs. Elevated pedestal mounted water storage tanks shall not be used.

**Policy F1.4** The City should maintain a water pipeline redundancy in order to maintain an adequate redundant water supply by considering the following:

- Strategy F1.4a Redundancy in the water distribution system is one way that the City can ensure reliability in delivering water to both residential and commercial customers.
- Strategy F1.4b Consider adding redundancy within the distribution system when replacing facilities that have reached the end of economic life or when performing repairs on existing facilities that require wholesale customer outages and the costs of redundancy are less than the avoided risk costs.
- Strategy F1.4c Redundant distribution water mains may be required to parallel transmission mains in order to meet water demands during a transmission main outage.

## **F2 Water System Capacity Allocation**

This policy relates to how the City of Flagstaff will plan and allocate the water system capacity available for new development. The primary purpose is to avoid exceeding the flow capacity of pipeline infrastructure and water production and treatment capacity. The benefit to the community is to ensure the public's trust in the City's water system and provide for long-term planning tool for community sustainability. This policy relates strictly to the tracking and commitment of the City's "paper water" peak day demands and is allocated on a "first in time, first in right" principle. Infrastructure requirements are addressed in Policy G1 – Utilities Master Planning.

**Policy F2.1** It is the intent of the Utilities Division to provide adequate water system capacity to meet the City's future development needs. In order to timely provide these services it will be Division policy to plan for future infrastructure, water production and treatment capacity needs by adopting the following benchmarks:

- Strategy F2.1a At 80% of committed peak day demand – the Utilities Division will identify additional sources, treatment capacity needs, funding options, start design and necessary land acquisition for increased capacity needs.
- Strategy F2.1b At 85% of committed peak demand - the Utilities Division will begin construction to expand necessary facilities.

Strategy F2.1c At 95% of committed peak demand – the Utilities Division will have completed construction and all necessary regulatory agency permits will have been obtained and begin full operation.

Policy F2.2 Communication: The Utilities Division will provide the primary point of contact for all staff-level communication with both the Arizona Department of Environmental Quality and the USEPA on water quality related issues.

Policy F.2.3 Water System Capacity Allocation Program: The Utilities Division shall track and monitor existing and proposed water demands to prevent the pipeline and treatment plants from exceeding the permitted design flow capacity and prevent outages or curtailments from occurring. Flows shall be based on the applicant's build-out water flow basis not actual flows. Any differential between actual flows and the development's build-out water flow basis that occurs is not available to the applicant for re-allotment to another project or project expansion.

Strategy F2.3a The Utilities Division shall conduct hydraulic modeling studies, (known as a Water–Sewer Impact Analysis) necessary to estimate water infrastructure impacts considering existing and proposed demands per City Engineering standards. These studies shall be reviewed and updated on a regular basis as more technical information becomes available. (City Code)

Strategy F2.3b The Utilities Division will use water demand data submitted during the Inter Departmental Staff Review Board process to estimate the Developer's water demand needs at build out. (City Code)

Strategy F2.3c The Utilities Division will commit, track and set aside with different time periods the necessary water system capacity (peak day water flow) for all new Subdivision Final Plats and new projects developed in accordance with their existing zoning designation on the Zoning Map. Annual peak day water capacity requirements for Major Regional Plan Amendments shall also be tracked but not committed or set aside.

Strategy F2.3d The developer will be required to obtain a building or grading permit within the specified timeframes outlined below or risk losing the committed water system capacity:

- Subdivision Final Plat – there will be no time limit on the reservation of the water system capacity committed for a subdivision final plat approved by

the City Council, the development and it is not transferrable to any other project or land.

- Zoning Map Amendment and Minor Amendments to the Regional Plan – for such new development, water resources and Utilities Water-Sewer Impact Analysis will only be committed for no longer than the time frame associated with the zone change approval within which the applicant has to commence construction subject to the conditions stipulated by the City Council. (2 years per City Council approval)
- Major Amendments of the Regional Plan – there will be no reservation of committed water system capacity for these amendments (i.e., capacity will be tracked but not committed or set aside).

#### Strategy F2.3e

Developments that require water system capacity infrastructure which are not included within with Utilities Division 10-year Capital Improvement Plan or those that create water system capacity requirements beyond what the existing water system can provide shall be treated on a case by case basis. After a Water-Sewer Impact Analysis is conducted, the Utilities Division may require the developer to upsized water infrastructure off-site, dedicate an existing well, drill a new well or multiple wells necessary to meet the developments “average daily” capacity requirements. The Utilities Division should develop criteria for when a well or multiple wells will be required to be funded separately by the Developer. The Utilities Division will be responsible to provide the difference between the development’s “average day” and “peak day” water system capacity requirements.

#### Strategy F2.3f

Developments that require water storage capacity infrastructure which are not included in the current 10 year Capital Improvement Plan or those that create water storage requirements beyond what the existing water storage facilities shall be treated on a case by case basis. In order to meet regulatory requirements for water storage, the Utilities Division may require the developer to fund and construct storage tank(s) equal to their “average day” water demands. The Utilities Division should develop criteria for when a storage tank(s) will be required to be funded separately by the Developer. The water storage tanks must be placed at an elevation that will provide adequate pressure for the Zone. It is the developer’s responsibility to obtain the appropriate land and right-of-way required to place the tank(s) and convey the water from the tank(s) to the site.

### **F3 Sewer System Capacity Allocation**

This policy relates to how the City of Flagstaff will plan and allocate the sewer system capacity available for new development. The primary purpose is to avoid exceeding the flow capacity of pipeline infrastructure and wastewater plant treatment capacity. The benefit to the community is to ensure the public's trust in the City's sewer system, avoiding public health hazards and provide for long-term planning tool for community sustainability. This policy relates strictly to the tracking and commitment of the City's "paper sewer" demands and does not address the future infrastructure requirements needed to support build out. Infrastructure requirements are addressed in Policy G.1 – Utilities Master Planning.

Policy F3.1 It is the intent of the Utilities Division to provide adequate sewer system capacity to meet the City's future development needs. In order to timely provide these services it will be department policy to plan for future infrastructure and treatment capacity needs by adopting the following benchmarks:

Strategy F3.1a At 75% of actual flow capacity - the Utilities Division will identify additional treatment capacity and funding options.

Strategy F3.1b At 80% of actual flow capacity – the Utilities Division will begin design and necessary land acquisition for increased capacity needs.

Strategy F3.1c At 85% of actual flow capacity – the Utilities Division will begin construction of expanded facilities.

Strategy F3.1d At 95% of actual flow capacity – the Utilities Division will have completed construction and all necessary regulatory agency permits will have been obtained and begin full operation.

Policy F3.2 Communication: The Utilities Division will provide the primary point of contact for all staff-level communication with both the ADEQ and the USEPA on sewer discharge regulatory related issues.

Policy F3.3 Sewer Capacity Allocation Program: The Utilities Division shall track and monitor existing and proposed sewer flows to prevent the pipeline and treatment plants from exceeding the permitted design flow capacity and prevent sanitary sewer overflows from occurring. Sewer Capacity Assurance tracking shall be in accordance with Arizona Administrative Code (AAC) R18-9-E301(C)(2) and in compliance with the ADEQ guidelines on an ongoing basis. (partially in City Code)

Strategy F3.3a The Utilities Division shall conduct hydraulic modeling studies (known as Water-Sewer Impact Analysis) necessary to estimate sewer infrastructure impacts considering existing and proposed demands per City Engineering standards. These studies shall be reviewed and updated on a regular basis as more technical information becomes available. (City Code)



- Strategy F3.3b The Utilities Division will use sewer demand data submitted during the Interdivisional Development Review Board process to estimate the Developer's sewer demand needs at build-out. (City Code)
- Strategy F3.3c The Utilities Division will commit, track and set aside with different time periods the necessary sewer system capacity (average daily design flow at build-out) for all new Subdivision Final Plats and existing zoning grading plans that are approved by the City Council. Annual average daily sewer capacity requirements for Major amendments shall also be tracked but not committed or set aside. The projected average daily sewer flow shall be calculated using the City of Flagstaff Engineering Standards and/or the sewer unit design flow tables contained within the Arizona Administrative Code (AAC) R18-9-E301 Table 1.
- Strategy F3.3d The developer will be required to obtain a building or grading permit within the specified timeframes outlined below in accordance with the conditions of the Zoning Map Amendment approval or risk losing the committed sewer system capacity:
- Subdivision Final Plat – there will be no time limit on the reservation of the sewer system capacity committed for a subdivision final plat approved by the City Council, and it is not transferrable to any other project or land;
  - Zoning Map Amendment and Minor Amendments to the Regional Plan – the Utilities Water-Sewer Impact Analysis reservation of a committed sewer demand for the approved conditions of the amendments will be no longer than a 2-year timeframe in accordance with Division 10-20.50 of the Zoning Code and subject to the conditions stipulated by the City Council;
  - Major/Minor Amendments of the Regional Plan – there will be no reservation of committed sewer system capacity for these amendments (i.e., capacity will be tracked but not committed or set aside).
- Strategy F3.3e Developments that require sewer system capacity infrastructure which are not included within with Utilities Division 10-year Capital Improvement Plan or those that create sewer system capacity requirements beyond what the existing sewer system can provide will be treated on a case by case basis. After a Water-Sewer Impact Analysis is conducted, the Utilities Division may require the developer to upsize sewer infrastructure off-site to meet the developments "average daily" capacity requirements. The Utilities Division should develop criteria for



when upsizing will be required to be funded separately by the Developer.

Strategy F3.3f Each new development, Zoning Map Amendment or a Major/Minor amendment to the Regional Plan will submit to the City an estimate of the maximum number of units (both residential and non-residential) and the average daily sewer design flow their development will require at built-out.

Strategy F3.3g The Community Development, Economic Vitality and Utilities Divisions will coordinate regarding the City's available uncommitted sewer capacity that can be allocated to priority developments shown in the voter approved Regional Plan. This will occur before approving any new extension, variance, or other changes to any final site or construction plans that results in the allocation of sewer capacity beyond that what was originally approved.

Policy F.3.4 Compliance: The City shall maintain its Designation as an Arizona Pollutant Discharge Elimination System Site and the permitted discharge limits as determined by the ADEQ. Additionally, City of Flagstaff will submit a report ~~these committed demands~~ to ADEQ for any new subdivision, site, system extension or collection system expansion as currently required by law.

#### **F4 Water and Sewer Service Outside City Limits**

The City of Flagstaff provides water and sewer service to some areas outside its City corporate limits. These areas include unincorporated areas of Coconino County such as portions of Doney Park, Camp Townsend, Pine Del, Ft. Tuthill and county islands within Flagstaff corporate limits. The purpose of this policy is to describe the conditions, requirements, and procedures for obtaining City of Flagstaff water (i.e., potable) and sewer service connections to areas located outside the corporate limits of the City of Flagstaff. Water and sewer service to new customers outside the City limits is solely within the City's discretion.

Policy F4.1 The City will consider out of city requests for service from customers in Unincorporated County Areas that are located within or contiguous to the City of Flagstaff corporate limits using the following criteria:

Strategy F4.1a The Unincorporated County Areas shall agree to be annexed into the City of Flagstaff. This provision only applies to new customers; existing customers are "grandfathered"

Strategy F4.1b The property requesting annexation must be within or contiguous to the City of Flagstaff corporate boundary.

Strategy F4.1c Water or sewer main extensions will be permitted only after annexation of the property is completed and approved by the City Council or where all property owners have ~~has a~~ signed a pre-Annexation Agreement and it is approved by City Council.

Strategy F4.1d Requests for service shall be evaluated by a cross-divisional internal team. The City will consider the economic value, potential costs to existing ratepayers, operation and maintenance costs, impacts to water resources, adequateness of infrastructure, and regional land use plans prior to granting service requests.

Strategy F4.1e Requests for service within other jurisdictions that are not described above will require an Intergovernmental Agreement (IGA) between the City and the other jurisdiction.

Strategy F4.1f Deviation from this policy will require City Council approval.

Strategy F4.1g Utility line extensions may require a Water-Sewer Impact Analysis. Requirements for water and sewer extensions shall be outlined within this analysis.

Policy F 4.2 The City's general policy for providing retail water service to new customers outside the City is within the City's discretion and ~~customers~~ will depend on the property's location and the City's obligation for providing water service and consider the following:

Strategy F4.2a The City may ~~will~~ allow a water service connection if a property fronts an operating water main that is less than 16-inches in diameter, (mains 16-inches and larger are transmission mains that are not intended for tapping), there is sufficient capacity in the system to meet peak hour fire flows, and all City Code and Engineering Design Standards associated with obtaining water service are met. (City Code)

Strategy F4.2b All service connections and main extensions shall comply with all applicable standards and code requirements, including, but not limited to, Flagstaff City Code, City of Flagstaff Engineering Design Standards, International Fire Code, and Maricopa Association of Governments (MAG) Standards. (City Code)

Strategy F4.2c Service connections and main extensions shall be located in public right-of-way meeting the standards of the City of Flagstaff. An easement, license or non-revocable permit is required for main extensions in the public right-of-way. If the service connection or main extension cannot be installed in right-of-way, a dedicated easement meeting City of Flagstaff design requirements will need to be approved by the City of Flagstaff Utilities Division. (City Code)

Strategy F4.2d The City ~~may will~~ provide service through a water service connection if a property fronts an operating City water distribution main, the main is within the correct pressure zone (less than 16-inches in diameter), there is sufficient capacity in the water system, and all City Code and COF Engineering Design Standards associated with obtaining water services are met. (City Code)

Strategy F4.2e Applicants shall be required to pay all applicable outside City of Flagstaff development fees, capacity fees, connection fees, repayment agreement fees, and permit fees. (City Code)

Strategy F4.2f The property to be served shall meet the same infrastructure development standards required of properties within the City of Flagstaff. (City Code)

Strategy F4.2g The City has the authority to deny or discontinue service if the service connection could threaten or endanger the safe, efficient and adequate service.

Strategy F4.2h The current outside City water service areas are shown and updated from time to time in the Water System Master Plan.

Policy F4.3 The City's general policy for providing retail sewer service to outside City customers is within the City's discretion and will depend on the property's location ~~and the City's obligation for providing sewer service~~ and considering the following:

Strategy F4.3a The City ~~may will~~ allow a sewer service connection if a property fronts an operating sewer main that is less than 18-inches in diameter, (mains 18-inches and larger are interceptor sewers that are not intended for tapping), there is sufficient capacity in the system to meet peak hour wastewater flows, and all City

Code and Engineering Design Standards associated with obtaining sewer service are met. (City Code)

Strategy F4.3b Under no circumstances will services be allowed into existing manholes. (City Code)

Strategy F4.3c Sewer service within other jurisdictions that are not described above will require an Intergovernmental Agreement (IGA) between the City and the other jurisdiction, which must be approved by the City Council.

Strategy F4.3d All service connections and main extensions shall comply with all applicable standards and code requirements, including, but not limited to, Flagstaff City Code, City of Flagstaff Engineering Design Standards, International Building Code, and Maricopa Association of Governments (MAG) Standards. (City Code)

Strategy F4.3e Service connections and main extensions shall be located in public right-of-way meeting the standards of the City of Flagstaff. An easement, license or non-revocable permit is required for main extensions in the public right-of-way. If the service connection or main extension cannot be installed in right-of-way, a dedicated easement meeting City of Flagstaff design requirements will need to be approved by the City of Flagstaff Utilities Division. (City Code)

Strategy F4.3f Applicants shall be required to pay all applicable outside City of Flagstaff development fees, capacity fees, connection fees, repayment agreement fees, and permit fees. (City Code)

Strategy F4.3g The property to be served shall meet the same infrastructure development standards required of properties within the City of Flagstaff. (City Code)

Strategy F4.3h The City has the authority to deny or discontinue service if the service connection could threaten or endanger the safe, efficient and adequate service.

Strategy F4.3i The current outside City sewer service areas are shown and updated from time to time in the Wastewater System Master Plan.

~~Policy E 4.4 The Utilities Division will review requests for water, sewer and reclaimed main extensions using the following criteria:~~

~~Strategy E4.4a Determine if capacity is available and stipulate any necessary requirements for the extensions. Any new service or change in use that will result in increased demands for water must consider that the change may require additional improvements to the City's water, sewer and reclaimed water systems at the owner's/developer's expense.~~

~~Strategy E4.4b Sewer main extensions will be permitted only after annexation is completed and approved by the Flagstaff City Council. The property requesting annexation must be contiguous to the City of Flagstaff corporate boundary.~~

~~Strategy E4.4c Deviation from this policy will require City Council approval.~~

~~Strategy E4.4d Utility line extensions may require a Water and Sewer Impact Analysis (WSIA). Requirements for water and sewer extensions shall be outlined within the WSIA analysis. Payment for the WSIA shall be by the developer or applicant.~~

**F5 Service Area Expansion (reserved for the future)**

**F6 Service Area Expansion- annexation (reserved for the future)**

## G. Master Planning

### G1 Utilities Master Planning

The City has developed and maintained water, wastewater and reclaimed water treatment and distribution/collection systems in order to provide a high level of water services to its citizens and customers. These systems should conform and support the orderly growth identified in the Regional Plan (i.e., General Plan as defined in ARS §9-461 et. al.), employ sound water management principles, meet or exceed all Federal and State water quality requirements, provide for adequate fire suppression and stormwater drainage for the benefit of public health and safety.

The City should first undertake a water resource master planning effort. The purpose of this planning should be to provide a guide to quantify the long-term needs for water resources, and identify future supply options and/or demand management opportunities including their respective costs. Additionally, this plan should support the City in maintaining its 100-year Designation of Adequate Water Supply as confirmed by the Arizona Department of Water Resources and within Policy B2 – Water Adequacy.

The City should then undertake infrastructure related master planning efforts in successive steps that utilize the information from each preceding planning effort to build upon one another. The sequence of planning should be completing the water infrastructure system, followed by the wastewater infrastructure system and then the reclaimed water infrastructure system. The purpose of conducting these planning efforts in sequence is to utilize common data between them to ensure continuity and integration of each of the systems. The last master planning effort in the sequence that spans across all three (3) of the infrastructure plans is to evaluate the Utilities implementation of technology, specifically its process control and monitoring system known as a Supervisory Control and Data Acquisition (SCADA) system.

Policy G1.1 The City will prepare or update a Water Resource Master Plan every five (5) years that considers the following:

Strategy G1.1a Existing legal water rights to the supplies it currently uses or possesses.

Strategy G1.1b Projected population and land use information contained within the voter approved Regional Plan in order to estimate water demands for a minimum of 30 years into the future (i.e., short-term planning) and at build-out (i.e., long-term planning). The maximum target population density of the Regional Plan should be used for water demand estimates unless determined otherwise.

Strategy G1.1c The technique of Scenario Planning or its equivalent should be employed when estimating future water supply needs of the City. The planning should anticipate a range of future plausible outcomes (e.g., wet v. dry climate; fast v. slow growth rates) and describe recommendations and choices the City can make in the short and long term. The planning should avoid predicting a single plausible future and then recommend water management options for only that sole outcome.

Strategy G1.1d Identification of the types and volumes of hydrologic water supplies (i.e., surface water v. groundwater) in order to assist in determining the necessary infrastructure (e.g., treatment plants or wells) during the Infrastructure master planning effort.

Strategy G1.1e Develop average annual water use factors for each type of land use (e.g., single family, multi-family, hotel, commercial, industrial, etc). Water use factors should be quantified in terms of Gallons per Capita per Day (GPCD), Gallons per House per Day (GPHD) or Gallons per Acre per Day (GPAD), as appropriate.

Strategy G1.1f Identify future water supply options and recommendations while considering the City's Adequate Water Supply Designation.

Strategy G1.1g This section should include options on how the City can better manage or optimize the supplies it currently relies upon (e.g., water conservation, rainwater harvesting, etc.) in addition to identifying new future water resources, as appropriate. All options should include their estimated cost on an acre-foot per year basis for comparison purposes.

Policy G1.2 The City will prepare a Water System Master Plan every five (5) years beginning the following year after the completion of the Water Resources Master Plan that considers the following:

Strategy G1.2a Use all of the information and assumptions contained within the Water Resources Master Plan.

Strategy G1.2b Identifying the necessary infrastructure (e.g., treatment plants and/or wells) to treat and deliver the water supplies identified within the Water Resources Master Plan in order to meet projected water demands. The regulatory requirements of the USEPA, ADEQ and any other applicable water quality rules or regulations.



Strategy G1.2c Development of average and peak water demand factors.

Strategy G1.2d Development and calibration of a hydraulic model of the water distribution system in order to assist in evaluating the optimum operations, water quality and infrastructure sizing. Update this model annually to account for changes in the Regional Plan and/or changes in development patterns.

Strategy G1.2e Development of a Capital Improvement Program, including capital, operation and maintenance costs, in order to develop and maintain a robust water distribution system to provide a high level of water service to Flagstaff customers. (City Code)

Policy G1.3 The City will prepare a Wastewater System Master Plan every five (5) years that considers the following:

Strategy G1.3a Use all of the appropriate information and assumptions contained within the Water Resources and Water System Master Plans.

Strategy G1.3b Identifying the regulatory requirements of the USEPA, ADEQ and any other applicable water quality rules or regulations.

Strategy G1.3c Average and Peak wastewater flow.

Strategy G1.3d Development and calibration of a hydraulic model of the wastewater collection system in order to assist in evaluating the adequacy of the existing system to accommodate varying wastewater flow conditions, and identify wastewater system modifications and expansions necessary to accommodate future flows. Update this model annually to account for changes in the Regional Plan and/or changes in development patterns.

Strategy G1.3e Review current solids handling practices at existing wastewater treatment plants and determine future solids handling requirements based on estimated wastewater flow projections.

Strategy G1.3f Development of Capital Improvement Program, including capital, operation and maintenance costs, in order to develop and maintain a robust wastewater collection system to provide a high level of wastewater service to Flagstaff customers. (City Code)



Policy G1.4 The City will prepare a Strategic Technology Master Plan specifically looking at the Utilities use of a Supervisory Control and Data Acquisition System (SCADA), Computerized Maintenance Management System (CMMS) and Geographic Information System (GIS) every (3) years due to the rapid change in technology and should considers the following:

Strategy G1.4a Evaluate the use of technology within the utility industry as it relates to supporting the business goals and objectives of the department.

Strategy G1.4b Technology should be aligned with the City enterprise systems.

Strategy G1.4c Evaluate the use of technology within the following application areas:

- i. Computerized Maintenance Management Systems
- ii. Electronic Operation & Maintenance Manuals-future
- iii. Geographic Information System-Utility based applications
- iv. Mobile Wireless Computing
- v. Inter and intra-facility Networking (WAN and LAN)
- vi. Modeling
- vii. Application integration
- viii. Provide Process Control & Monitoring (SCADA)
- ix. Information Technology Security
- x. Water Quality and Laboratory Information Management
- xi. Web and e-Business

Strategy G1.4d Develop a list of recommended projects to be implemented, including their capital cost, annual operation and maintenance costs, man-hours to implement and levels of support required.

## H. Regional Cooperation and Leadership

The City is often engaged in numerous regional/state-wide organizations to develop policy or position statements on water issues that impact Flagstaff. These have included being active with the Northern Arizona Municipal Water Users Association, Arizona Department of Water Resources (ADWR), Federal Emergency Management Agency (FEMA), USEPA, ADEQ, Northern Arizona University (NAU), U.S. Bureau of Reclamation (BOR), U.S. Geological Survey (USGS), Coconino Plateau Water Advisory Committee (CPWAC), Salt River Project, Central Arizona Project, and various State-led forums. Additionally, the City needs-will continue to work collaboratively with Coconino County, the Navajo Nation and Hopi Tribe regarding regional water issues. Since water management decisions made today have long term implications, it is prudent that the City remains involved in influencing regional and State water policy and should consider the following:

### H1 Collaboration with Tribal Governments

Policy H1.1 The City should foster and maintain professional relationships with the tribal governments of the Navajo Nation and Hopi Tribe regarding regional water issues.

Strategy H1.1a the Mayor or their designee should establish and maintain a professional relationship with the elected officials of each tribe in order to stay informed, work collaboratively and influence policy decisions that may affect the City of Flagstaff's water supplies.

Strategy H1.1b the City Manager or their designee should establish and maintain a professional relationship with the government officials of each tribe in order to stay informed, work collaboratively and influence policy decisions that may affect the City of Flagstaff's water supplies.

Strategy H1.1c the Utilities Division staff should establish and maintain a professional relationship with the water resource staff of each tribe in order to stay informed, work collaboratively and influence policy decisions that may affect the City of Flagstaff's water supplies.

### H2 Collaboration with Water Agencies, and Associated Water Groups

Policy H2.1 The City should foster and maintain professional relationships with water management, water quality, flood control and water delivery agencies.

Strategy H2.1a the Mayor or their designee should establish and maintain a professional relationship with the appropriate counter-parts within these organizations in order to stay informed, work collaboratively and influence policy decisions that may affect the City of Flagstaff's water supplies.

Strategy H2.1b the City Manager or their designee should establish and maintain a professional relationship with the appropriate counter-parts within these organizations in order to stay informed, work collaboratively and influence policy decisions that may affect the City of Flagstaff's water supplies.

Strategy H2.1c the Utilities Division staff should establish and maintain a professional relationship with the appropriate counter-parts within these organizations in order to stay informed, work collaboratively and influence policy decisions that may affect the City of Flagstaff's water supplies.

### **H3 Water Rights Acquisition**

Policy H3.1 The City should demonstrate regional leadership in water management and water policy by participating in:

- a. Competition for limited renewable water supplies.
- b. Protection of existing water rights and water supplies.
- c. Protection of environmentally sensitive riparian areas.
- d. Collaboration/partnerships with adjacent water providers.
- e. Water source and infrastructure financing.
- f. ADWR Water Adequacy and Management Plans.
- g. Intergovernmental and interagency relationships.
- h. Collaborate National Pollutant Discharge Elimination System (NPDES) compliance efforts with other jurisdictions.
- i. Maintain relationships with FEMA and ADWR respecting flood control and National Flood Insurance Program (NFIP) issues.

## I. Water Security

The Mission of the City of Flagstaff Utilities Division is to provide safe water, sewer, ~~reclaimed water~~ and stormwater services to the City of Flagstaff customers and to utilize reclaimed water as a significant water management tool. Drinking water safety and maintaining security of the City's wastewater and stormwater collection systems is a primary concern of the Utilities Division for utility system employees and the community.

### I1 Water Supply Security

Policy I1.1 The Utilities Division shall follow the recommendations of the Public Health Security and Bioterrorism Preparedness and Response Act enacted by the Federal Government and the Water System Vulnerability Assessment prepared in November 2003 and their updates specifically prepared to follow this guidance act.

Strategy I1.1a Security - Implement security improvements as funds become available as recommended in the vulnerability assessment reports.

Strategy I1.1b Assessment – conduct updates to vulnerability assessments on a periodic basis and maintain confidentiality of any vulnerabilities identified.

### I2 Infrastructure Security

Policy H2.1 The Utilities Division shall limit access to the public from sensitive information and critical areas of the utility infrastructure in order to minimize the threat of attack or compromise of the Utilities Division's services. The Utilities Division develops an annual Report to the Water Commission that contains a variety of potential sensitive infrastructure information.

Strategy I2.1a Restrict Tours - Restrict public tours of the treatment facilities and/or limit access to critical portions of the plants.

Strategy I2.1b Limit Information to Public - Balance the public's right to know versus Utilities need for public safety. Develop guidelines on restrictions to the public including access to the annual Report to the Water Commission.

Strategy I2.1c Report Suspicious Behavior - Utilities Division staff need to be aware of and report suspicious behavior near critical facilities.

Strategy I2.1d

SCADA Information Security - The Utilities Division treatment plant facilities utilize a process control and monitoring system known as a Supervisory Control and Data Acquisition (SCADA) system in order to track information electronically and safely operate and control each treatment plant. These SCADA systems need to be physically isolated from all other computer networks and their network access restricted to minimize their potential to be infected by virus or malicious intent.

**I3 Discharge Control for Sanitary and Stormwater Systems**

Policy I3.1 Utilities shall maintain programs to control the type of materials and substances that are allowed to be discharged or placed into the sanitary and stormwater systems.

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**APPENDIX 1**

**City Council Resolution #2014-14**

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# **UTILITIES INTEGRATED MASTER PLAN**

## Principles of Sound Water Management Water Policies Chapter



April 1, 2014  
City of Flagstaff - Utilities Division



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# Introduction

The primary purpose of the Utilities Integrated Master Plan - Water Policy chapter is to provide the fundamental principles and guidelines for how the Utilities Division achieves the goals and objectives outlined by City Council and upper City Management. The objective of these policies is to: preserve the public's trust in our water, sewer and stormwater systems through compliance with state and federal water quality, water management and flood plain management laws; guide strategic long-term planning; and demonstrate leadership in the stewardship of our limited natural resources. These policies emphasize the importance of water conservation, the protection of our natural environment and the development and maintenance of a redundant water supply that will assist in satisfying demand during a prolonged drought.

The principles of sound water management contained within these water policies will support and build on the policies contained within the Water Element section of the Regional Land Use and Transportation Plan and its subsequent updates. These policies will provide guidance to staff on how most effectively to develop, recommend and implement the numerous programs administered by the Utilities Division.

The Utilities Division is comprised of two Enterprise Funds; water, wastewater and reclaimed water are tracked individually in one fund; the second separate fund is stormwater. The fiscal intent is to balance expenses (O&M and Capital) versus income from rates and capacity fees.

These policies refer to conducting periodic master planning efforts for water resources, and Utilities infrastructure including the water system, wastewater system, reclaimed water system, stormwater drainage and technology pertaining to the water and sewer system's operation and control, also known as a Supervisory Control and Data Acquisition or SCADA. All master planning efforts should take into account the Utilities Division's potential impacts, vulnerability and assessment of risk from climate variability and weather related effects. The goal should be to build in resilience in the operations of the Utilities Division in order to protect against the risk from climate variability and weather related impacts to the City's water supplies and infrastructure. The City undertook a Resiliency and Preparedness study in 2012 and the results and recommendations of this study should be considered in all master planning efforts.

The process to develop and adopt these water policies was a very public endeavor that was vetted through numerous meetings with the City's citizens advisory Water Commission and the Flagstaff City Council. The development of these policies initially started in 2008 and culminated with the Water Commission approving the policy language on November 15, 2012. City Council then took up the review and discussion of each policy. After eleven (11) meetings, the City Council adopted these policies by Resolution No. 2014-13 on April 1, 2014.

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## **A. Finance**

The City has an important responsibility to its citizens to carefully manage its Utilities finances wisely, account for public funds, and to plan for the adequate funding of services desired by the public including water and sewer services, reclaimed water uses and stormwater management. Therefore, the Water & Sewer-Utility and the Stormwater Utility shall be financially self-supporting enterprises with all costs associated with each operation to be funded from revenues derived from the sale of potable water or reclaimed water or the assessment of fees for sewer and stormwater system services.

### **A1 Enterprise Funding: Water & Sewer Utility**

Policy A1.1 The annual payment for debt service should not exceed 20% of total annual Operating Revenues.

Policy A1.2 The Water and Sewer Utility shall have a goal of maintaining more than 25% of the total estimated annual Operational Revenues in reserve for known future obligations plus an allowance for unbudgeted contingencies. This policy would not include Federal Support for disaster relief.

Policy A1.3 In the event that the Mayor and City Council determine that there exists the need to set aside a minimum amount of water to be sold at a reduced rate or to grant some other forms of subsidy for users within the City's service area, the costs of such subsidies shall be from a non-utility source.

Policy A1.4 The City shall not enter into a development agreement for any purpose that permits the developer to pay (or otherwise offset) reduced water rates and/or reduced capacity fees unless such rates and/or fees are collected from a non-utility source.

Policy A1.5 The City's policies on the collection of payments for water and sewer capacity fees, water meter fees, service charges and other fees shall be applied consistently and as follows:

Strategy A1.5a A customer must provide proof that either a building or grading permit application was submitted to the Community Development Division prior to paying any fees.

Strategy A1.5b All fees must be paid in full at the time of payment (*City Code*)

Strategy A1.5c If fees are scheduled to change, the customer has until one business day prior to the scheduled change to pay all fees under the current fee schedule. A customer may not use proof of an application submission prior to the fee schedule change to



pay fees under the previous fee schedule after the schedule change date.

Strategy A1.5d If a customer pays all fees but does not install the water meter and connect to City services before the building permit expires, the customer is subject to the latest fee schedule and any increase in fees will be assessed on the location. A decrease in fees will not be recalculated and refunded. The City should make an effort to contact the customer prior to the expiration of the building permit.

Strategy A1.5e If a customer changes the size of the water meter after all fees are paid, the customer is subject to the latest fee schedule and any increase in fees will be assessed on the location.

Strategy A1.5f All capacity fees are non-refundable and non-transferable from one parcel to another parcel.

## **A2 Enterprise Funding: Stormwater Utility**

Policy A2.1 The Stormwater Utility shall collect revenues from properties with impervious surfaces according to an Equivalent Rate Unit (ERU) basis (See definition that follows). The Stormwater Utility shall have a goal of maintaining more than 10% of the total estimated annual Operational Revenues in reserve for known future obligations plus an allowance for unbudgeted contingencies.

Policy A2.2 The Stormwater Utility shall issue runoff credits for properties implementing eligible stormwater catchment systems as further described in the stormwater manual (*City Code*).

## **A3 Rate Design Elements: Water & Sewer**

Policy A3.1 Water and sewer rates should be set on a cost-of-service basis. Commodity charges should reflect the costs across all customer classes. Rate structures should be designed with the goal of encouraging water conservation. The design of recommended rates should include provisions that will provide a minimum of 25% of revenues from fixed costs and the remainder from commodity rates. The design should also anticipate a balance between conservation (commodity charges) and revenue stabilization (fixed rates) (*partially in City Code*).

Policy A3.2 Water and sewer rates shall be internally reviewed annually. Any anticipated changes in the rate structure should be implemented in a timely manner in order to avoid large-scale shifts in rates. A formal rate study will be performed every three (3) years.

Policy A3.3 Water and sewer fixed and variable rates for customers located outside the City limits, including standpipe customers, shall always be over and above the charges to customers within City limits and will be set during a formal rate study as per Policy A.3.2. The purpose of the increased rates is to capture those hidden costs that customers within the City limits pay and non-residents do not such as fixed costs (e.g., water meter charges).

Policy A3.4 Capital projects which would require the utility to take on debt greater than Policy A1.1 are not financially sustainable due to their potential impact on existing rates and capacity fees. Financing for large projects may require funding support from such sources as the federal government, state government, new taxing district or authority, public-private partnership, sales tax, revenue bonds or a combination of these sources.

#### **A4 Private Water Company Acquisition**

Policy A4.1 The City of Flagstaff shall have a goal of becoming the sole retail water, sewer and reclaimed water provider within its incorporated boundaries. From time to time, the City may have opportunities to purchase other existing water delivery or sewer collection systems adjacent to or near the City's existing service area. The following criteria will be used to evaluate such opportunities:

- Strategy A4.1a The purchase must prove to be beneficial to the customers of the Utility.
- Strategy A4.1b The private water company must possess sufficient water supplies of sufficient capacity that meet applicable federal and state drinking water quality standards.
- Strategy A4.1c The components of the private water company's infrastructure (water production, pipelines, fire hydrants, etc.) should be constructed to existing City utility standards or be upgraded to those standards prior to acquisition.
- Strategy A4.1d The purchase of the private water company should not result in a net increase of costs to existing City water and sewer or customers.
- Strategy A4.1e The new service area shall be within existing City limits or be annexed into the City of Flagstaff prior to purchase.

Definitions:

**Cost Recovery:** The collection of sufficient revenues from charges, rates and capacity fees to meet the present and future operational, maintenance, capital and debt service obligations of the Utility

**Cost of Service:** An evaluation process by which revenue requirements are used to generate a system of fair and equitable costs in proportion to the service received for each user classification.

**Equivalent Rate Unit (ERU):** The basic unit for the computation of stormwater service fees. All property in the City is subject to the periodic stormwater management utility service charge. The fee is based on number of ERUs, each ERU is equal to 1,500 square feet of impervious area.

**Fund Balance:** An account defined as the difference between the assets and liabilities of a fund. It is used as a measure of the amount available to budget or spend in the future.

**Future Obligations:** Previously identified capital improvement projects, including those approved capital projects contained in the five-year Capital Improvement Program.

**Operational Revenues:** Income derived from sources related to the Utilities everyday business operations. Operational revenues consist of revenues from sales of a commodity (water, sewer, reclaimed water) and miscellaneous service revenues. For example, water sales and installation services generate on-going operating revenue, whereas the sale of City property is considered to be an unexpected, or "one-time", event.

## **B. Water Resource Management**

### **B1 Use of Renewable Water Resources**

Maximizing the use of renewable water supplies is an important water management tool to minimize the long-term impacts of over-drafting a community's groundwater resources. Examples of local renewable water supplies for the City of Flagstaff include surface water from Upper Lake Mary, spring flow from the Inner Basin, groundwater equivalent to net natural recharge, and directly delivered reclaimed water. Utilizing renewable water resources as the City's primary supplies will not only help Flagstaff be sustainable but it will also save groundwater for times when surface water supplies are unavailable or severely limited due to prolonged drought conditions.

Policy B1.1 The City should maximize the use and delivery of local renewable water supplies that are available in any given year.

Policy B1.2 The City should develop a diverse renewable water supply portfolio to ensure redundancy in the event one supply is unavailable or severely limited due to prolonged drought conditions. A diverse water supply portfolio includes the following:

Strategy B1.2a The different types of water supplies (e.g. groundwater, surface water and reclaimed water) and the different types of production infrastructure (e.g. wells, water treatment plants) necessary to treat and deliver each type of water supply.

Strategy B1.2b The temporal aspect of the water supply for redundancy. For example, will the redundant water supply be available for a long time (i.e. groundwater) or for a shorter time frame (e.g. surface water in Lake Mary). When considering production infrastructure (i.e. wells), the redundancy should be available permanently.

Strategy B1.2c The timing and costs associated with maximizing these renewable resources.

### **B2 Water Adequacy – Adequate Water Supply Program**

This policy relates to the City of Flagstaff maintaining its Designation of Adequate Water Supply (Designation) by the Arizona Department of Water Resources (ADWR). The primary purpose to maintain the Designation is to ensure that all new development within City limits has a proven a 100-year water supply prior to construction. The benefit to the community is to ensure the public's trust in the City's water resources and provide for long-term economic vitality and sustainability. This policy relates strictly to the tracking of and commitment to water resources and does not address the infrastructure requirements to

deliver and utilize the water supply. Infrastructure requirements are addressed in Policy G.1 – Utilities Master Planning.

Policy B2.1 Communication: The Utilities Division will provide the primary point of contact for all staff-level communication with both the ADWR and U.S. Bureau of Reclamation on water resources and water conservation regulatory related issues.

Policy B2.2 Adequate Water Supply Program: the City shall develop a water management program that complies with the Adequate Water Supply Program by demonstrating, at a minimum, that its water supplies are physically, legally and continuously available for at least 100-years.

Strategy B2.2a The Utilities Division shall conduct hydrologic studies necessary to estimate its 100-year volume of water supplies considering groundwater, surface water and reclaimed water per state regulations. These studies should at a minimum include partnering in the development, maintenance and update of a computerized groundwater flow model of the Coconino Plateau's regional hydrology in order to assist in evaluating the sustainability of the City's groundwater supplies over the long-term, their resilience from drought and to support the City's Designation of Adequate Water Supply. These studies should be reviewed and updated on a regular basis as more technical information becomes available.

Strategy B2.2b The Utilities Division will use data developed within the Integrated Utilities Master Plan - Water Resources Chapter (Policy F.1) to estimate the City's water demand needs at build-out.

Strategy B2.2c The City's water supplies, as determined by Policy B.2.2a, shall be dedicated to all existing developed parcels, new projects developed in accordance with their zoning designation on the Zoning Map, and to new Subdivision Final Plats on a first come, first serve basis. The City should also consider the economic value of water and recommend a pre-defined volume of water to set-aside that is sufficient to encourage and maintain economic development and vitality.

Strategy B2.2d For each new Subdivision Final Plat, Zoning Map Amendment or Major/Minor Amendment to the Regional Plan an estimate of the annual average and peak day volume of water for the development at built-out will be provided. The projected annual average water needs shall be calculated using the City of Flagstaff Engineering Standards and/or the water use metrics

contained within the Utilities Department Integrated Water Master Plan – Water Resource Chapter. The build-out estimates, when appropriate, should consider additional water conservation measures that may reduce the development's projected annual average water needs into the future.

Strategy B2.2e The Utilities Division will commit, track and set aside with different time periods the necessary annual average and peak day water supply for all new Subdivision Final Plats and new projects developed in accordance with their existing zoning designation on the Zoning Map. Annual average and peak day water supply for Major Amendments shall also be tracked but not committed or set aside.

Strategy B2.2f The developer will be required to obtain a building or grading permit within the specified timeframes outlined below or risk losing the committed water resources:

- Subdivision Final Plat – there will be no time limit on the reservation of the water resources committed for a subdivision final plat approved by the City Council as long as the City maintains its Designation of Adequate Water Supply with the Arizona Department of Water Resources. The reservation of water resources is not transferrable to any other project or land.
- Vacant Property Seeking Development Approval (e.g. Site Plan Review) – for all new development proposed consistent with the existing zoning as designated on the Zoning Map, there will no time limit on the reservation of the water resources committed as long as the City maintains its Designation of Adequate Water Supply with the Arizona Department of Water Resources.
- Zoning Map Amendment and Minor Amendments to the Regional Plan – for such new development, water resources will only be committed for no longer than the time frame associated with the zone change approval within which the applicant has to commence construction subject to the conditions stipulated by the City Council as long as the City maintains its Designation of Adequate Water Supply with the Arizona Department of Water Resources.
- Major Amendments to the Regional Plan – there will be no reservation of committed water resources for these amendments (i.e., water resources will be tracked but not committed or set aside).
- This Strategy should only be applicable to commercial, industrial and multi-family developments and those residential subdivisions that contain six (6) or more individual lots. This policy is not applicable to a single lot land owner.

Strategy B2.2g The Community Development, Economic Vitality and Utilities Divisions will coordinate regarding the City's available uncommitted water resources that can be allocated to priority developments shown in the voter approved Regional Plan. This will occur before approving any development agreement, new extension, variance, or other changes to any final site or construction plans that results in the allocation of water beyond that what was originally approved.

Policy B2.3 Compliance: The City shall apply for and take all necessary steps to maintain its status as a Designated water provider as determined by the ADWR. Additionally, City of Flagstaff will submit the committed demands for each Subdivision Final Plat and permits granted for existing lot developments on an annual basis to the ADWR as currently required by law.

### **B3 Water Quality**

The mission of the City of Flagstaff's Utilities Division is to professionally and cost effectively provide water, wastewater and stormwater services. This is accomplished by being recognized as a leader of excellence in water utility services. Drinking water safety is a primary concern of the Utilities Division; safety shall be achieved by utilizing technology and qualified staff members to monitor production systems, sample the distribution system and evaluate opportunities to continually enhance the program while being cost effective to our customers. The City shall develop water quality programs that provide potable water which is treated, tested and safe for Flagstaff citizens, businesses and visitors and meets all current water quality regulations.

Wastewater quality shall be established through an active pretreatment and monitoring program which ensures the safety of the City's infrastructure and adherence to regulations.

#### **Water**

Policy B3.1 The City shall develop water treatment facilities which:

- a. Provide quality water which meets current federal regulations,
- b. Consider operational costs and water quality standards when determining treatment options, and
- c. Consider aesthetic characteristics such as taste, odor and residual chlorine in the design process of treatment options.

Policy B3.2 The City shall maintain monitoring schedules which provide:

- a. Monitoring at each facility, both on-site and remotely, if applicable,
- b. Sampling schedules designed to monitor as early in the compliance cycle as possible,

- c. Sampling appropriately within the distribution system,
- d. Sampling results shared with residents in a timely fashion, and
- e. Compliance with Federal, State and Local regulations for each parameter of interest tested.

Policy B3.3 The City shall maintain a compliance laboratory for both operational and compliance purposes, which provides rapid response to operations for routine testing where:

- a. Parameters that are tested shall minimize turn-a-round time,
- b. Parameters that are tested shall improve operational efficiency and effectiveness,
- c. Parameters that are tested will be cost effective for regulatory compliance,
- d. Verification of testing completed and each result will be in compliance with Federal, State and Local regulations,
- e. Water quality sampling data shall be managed using a computerized database management system to facilitate tracking, trending and archival of the information, and archival of the information.
- f. All laboratories used by the City shall be certified by the Arizona Department of Environmental Quality (ADEQ) for the parameters that are tested.

Policy B3.4 The City shall maintain a cross connection program which requires all backflow devices within the City, except single family homes unless equipped with a fire sprinkler system, to be tested annually and in compliance with Federal, State and Local regulations. All testing and permitting costs will be the responsibility of the owner (*City Code*).

### **Wastewater**

Policy B3.5 The City shall maintain a pretreatment program which adheres to U.S. Environmental Protection Agency (USEPA) requirements. This program shall perform the following at a minimum:

- a. Maintain an annual inspection, monitoring and sample schedule which protects the City's infrastructure,
- b. Ensure businesses do not discharge wastes which can lead to sanitary sewer overflows, and
- c. Ensure businesses do not discharge waste which can compromise the collection infrastructure, treatment facility, impair operators or cause reclaimed water to fail to meet permit requirements.



Policy B3.6 The City shall develop wastewater treatment facilities which:

- a. Adhere to Aquifer Protection and Arizona Pollutant Discharge Elimination System permits issued by the ADEQ,
- b. Provide the best use of reclaimed water while ensuring compliance to the facility's regulatory permit(s),
- c. Allow the greatest flexibility in plant operations,
- d. Minimize operational costs, and
- e. Provide reclaimed water at a minimum quality of A+.

Policy B3.7 The City shall develop appropriate emergency response plans that:

- a. Coordinate with multiple agencies to facilitate communication and minimize challenges in the event of an emergency,
- b. Develop cooperative agreements with surrounding organizations or communities, if appropriate, and
- c. Review facility emergency operations plans on an annual basis to ensure appropriate response.

## C. Reclaimed Water

The State of Arizona is recognized as a national leader in the management and regulation of reclaimed water which has led to its increased use across the State. The Governor's Blue Ribbon Panel Report on Water Sustainability published a report in 2010 that states reclaimed water has significantly increased in use over the past two decades and now represents 3% of the total water used throughout the State in 2012. The City of Flagstaff is known within Arizona as a leader in reclaimed water use which now represents 20% of total water used within the City. In 2014, the Governor's office and the Arizona Department of Water Resources published a report titled "Arizona's Next Century: A Strategic Vision for Water Supply Sustainability". That report identified the continued commitment to conservation and expanding the reuse of reclaimed water as the State's second highest strategic priorities towards achieving water supply sustainability. The treatment, delivery and use of reclaimed water is a significant water management tool and will continue to play a key role in the sustainability within the City of Flagstaff today and into the future.

### Definitions

- i. Direct Reuse: In accordance with Arizona Administrative Code (A.A.C.) R18-9-701, Direct reuse means the beneficial use of reclaimed water for a purpose allowed by State law. The delivery of this water supply is accomplished via a separate distribution system, commonly colored purple. The uses of Class A+ reclaimed water that are common to Flagstaff and are listed in A.A.C. R18-11-309-Table A include: residential or school ground landscape irrigation, irrigation of food crops, toilet and urinal flushing, fire protection systems, snowmaking, golf course irrigation, dust control, and street cleaning. Direct reuse does not include water for potable consumption at this time. However, when technology, regulations and public acceptance allow, Direct reuse may include water for potable consumption.
- ii. Groundwater Recharge: In accordance with Arizona Revised Statutes groundwater recharge is conducted utilizing either a Constructed (§45-802.01.4) or a Managed (§45-802.01.12) Underground Storage Facility (USF) that has the intent to store water underground. In general, a Constructed USF is an engineered and designed recharge facility while a Managed USF simply utilizes the natural channel of a stream (e.g., Rio de Flag) to recharge the groundwater aquifer.
- iii. Indirect Reuse: In accordance with industry standards and for the purposes of this policy, Indirect Reuse means the use of reclaimed water that has been previously recharged and stored underground; that has been co-mingled or mixed with the natural groundwater system; then withdrawn or recovered via

water supply wells. This co-mingled mix of water meets all Safe Drinking Water Act requirements.

- iv. Reclaimed Water: In accordance with A.A.C. R18-9-701, Reclaimed water means water that has been treated or processed by a wastewater treatment plant or an on-site wastewater treatment facility.
- v. Recovery: In accordance with Arizona Revised Statutes, recovery of stored water is the withdrawal of a water supply (e.g., reclaimed water) that has been previously recharged underground pursuant to applicable state law (§45-831.01 - §45-836.01).

## **C1 Charges**

Policy C1.1 The City shall have a goal of a minimum of full Cost Recovery for reclaimed water that is delivered within and outside of the City's incorporated limits. To the extent these charges discourage the use of reclaimed water the charges for reclaimed water shall be adjusted to encourage its use. The adjusted charge will be subsidized by the water rate customers.

## **C2 Water Quality and Education**

Policy C2.1 The Utilities Division should design and construct water reclamation facilities that treat and produce reclaimed water to the highest water quality standards permitted by Federal and State law. Reclamation facilities shall be designed to permit the use of reclaimed water for either Direct Reuse or Indirect Reuse and shall be monitored in accordance with each facility's permit. Additionally, the Utilities Division should evaluate the economic costs, feasibility and environmental and health-risk benefits of implementing new technologies as may be appropriate from time to time. *(partially in City Code)*

Policy C2.2 The Utilities Division should remain engaged in regional, state and national discussions on the use and regulation of reclaimed water, including the management and quality of the reclaimed water supply and the state of the science of treatment technologies. This should be accomplished by remaining active at a minimum in the national WaterReuse Association and its Arizona chapter (WaterReuse Arizona), Water Environment Federation and the national American Water Works Association and its Arizona section (AZ Water).

Policy C2.3 The Utilities Division should maintain an educational program that focuses on reclaimed water, its safety, quality, public perception and beneficial uses.

### **C3 Reclaimed Water Agreements**

Policy C3.1 The Utilities Division shall require each user to have a direct delivered Reclaimed Water Agreement which may be modified from time to time by agreement of the parties. These Agreements should contain at a minimum; user name, address, place of use, point of delivery, delivery schedule (i.e., maximum peak day, maximum monthly and annual volume), price, termination date and other applicable information and contract terms as appropriate. Reclaimed water will be considered and allocated on a first come: first served basis, but entering a Reclaimed Water Agreement shall remain solely within the City's discretion. Any proposed modifications to the terms of an existing Reclaimed Water Agreement (e.g., change of intended use, place of use, delivery schedule or other modifications) will require the applicant to obtain a new Reclaimed Water Agreement which may be entered into or denied within the City's sole discretion. *(partially in City Code)*

### **C4 Reclaimed System Capacity**

Policy C4.4 The Utilities Division will review requests for reclaimed main extensions using the following criteria:

Strategy C4.4a Determine if capacity is available and stipulate any necessary requirements for the extensions. Any new service or change in use that will result in increased demands for reclaimed water must consider that the change may require additional improvements to the City's reclaimed water system at the owner's/developer's expense. *(City Code)*

Policy C4.5 Reclaimed Water System Capacity Allocation Program: The Utilities Division shall track and monitor existing and proposed peak day and average annual reclaimed water deliveries in order to prevent exceeding the City's ability to meet contracted for demands. When system capacity has been approached or there are supply limitations for any reason, the Utilities Director will stop issuing any new Reclaimed Water Agreements until such time that additional reclaimed water supplies are available. In the event of a reclaimed water shortage, the shortfall will be spread equitably across all customers.

### **C5 Out of City Deliveries**

Policy C5.1 Charges for out of City reclaimed water deliveries shall always be over and above the charges to customers within City limits as defined in Policy C1.1.

Policy C5.2 The City's general policy for providing reclaimed water deliveries to new customers outside the City is within the City's discretion.

## **C6 Recharge and Recovery**

In order to ensure groundwater supplies are sustainable and resilient to the impacts from prolonged drought, the City should be involved in the recharge of its unused renewable water supplies. In addition, the City should plan and implement strategies to recover those renewable water supplies that are stored underground to meet its customers contracted for or long-term water needs.

**Policy C6.1** The Utilities Division should develop a Groundwater Recharge & Recovery program that is in compliance with applicable State laws (§Title 45 Chapter 3.1 Underground Water Storage and Replenishment). The purpose of this program would be to optimize the management and use of the City's reclaimed water.

**Policy C6.2** The City should continue to develop local water recharge and recovery initiatives. These initiatives should:

- a. Maximize the storage of the City's unused reclaimed water underground (recharge) by developing, constructing and permitting City-owned Underground Storage Facilities, where appropriate, through the Arizona Department of Water Resources.
- b. Capture and recover the stored reclaimed water through water supply wells located down-gradient and permitted as Recovery Wells through the Arizona Department of Water Resources.

**Policy C6.3** The City should remain engaged, informed and involved in state-wide and regional discussions regarding groundwater use, recharge and recovery.

## **C7 Uses, Allocation and Priority**

**Policy C7.1** The Utilities Division should continue to recommend updates to policies and ordinances that encourage the Direct Reuse of reclaimed water where appropriate and consistent with State and Federal laws.

**Policy C7.2** Golf courses, other large turf areas (e.g., schools, parks, etc) and amenity lakes shall use Direct Reuse of reclaimed water.

**Policy C7.3** The priority uses or future allocations of reclaimed water are:

**Renewal of Reclaimed Water Agreements with Existing Users.** First priority shall be given to those users that already have a valid Reclaimed Water Agreement for the delivery of reclaimed water. If requested by such existing user, the Utilities Division shall renew a Reclaimed Water Agreement provided that all applicable financial and legal requirements of City, State and Federal laws have been met. These Agreements shall be binding upon any successors and assigns who

acquire the property that is benefitted by the Reclaimed Water Agreement and shall not be transferred or assigned without the City's written consent, which shall not be unreasonably withheld.

**Water Conservation.** Conserve potable water through the Direct Reuse of reclaimed water by converting existing uses of potable water to reclaimed water, where allowed by State Law.

**Public Benefit.** The Direct or Indirect Reuse of reclaimed water should be encouraged as a significant water management tool to sustain or promote economic vitality, augment the City's water supply (e.g., Groundwater Recharge and Recovery) and support contracted for deliveries for riparian habitat, wetlands or ponds.

Examples of such Direct and Indirect Reuse of reclaimed water are listed in alphabetical order and in no specific order of priority:

ADEQ approved uses of reclaimed water that are identified within A.A.C. R18-11-309. Table A.

Amenity Lakes or Ponds: Direct Reuse of reclaimed water to fill and maintain amenity or decorative lakes that have public access.

Commercial, Industrial and Manufacturing: Any commercial, industrial or manufacturing operation that uses reclaimed water for its processes.

Construction/Street cleaning: Direct Reuse of reclaimed water for dust control or street sweeping on construction projects or City streets whether by private company, federal, State DOT or municipal use. This can be either through approved hydrant use or hauled water.

Landscaping: Direct Reuse of reclaimed water for irrigation of turf and other types of landscaping associated with public parks, cemeteries, schools, ball fields, golf courses.

Managed or Constructed Underground Storage (or recharge) Facilities: Storing reclaimed water underground for future use within permitted groundwater recharge facilities that are located within or adjacent to the Rio de Flag.

Recovery: Use of a City water supply well to withdraw or recover a mixed, co-mingled source of reclaimed water with groundwater that has been previously stored underground pursuant to applicable State law.

Riparian habitat, wetlands & ponds: Use of reclaimed water to support areas of vegetation that is dependent on saturated or moist soils; for example, contracted for reclaimed water that supports vegetation along the banks of the Rio de Flag which is distinct from the predominant or typical landscape type.

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## **D. Water Conservation**

The City of Flagstaff Water Conservation program provides customers with an educated awareness of water as a valuable resource. This program enables water use efficiency and less demand on our water supply resulting in reduced capital and operating costs for water production and wastewater treatment. Conservation also results in reduced energy needs for water production by reducing the amount of energy required to deliver water to our customers. A comprehensive and consistent water conservation and usage policy shall be developed that would include the best use of all the City's water resources while assuming a leadership role for Water Conservation in the community.

### **D1 Education**

Policy D1.1 The Water Conservation Section shall maintain a year-round water conservation program that provides outreach to its citizens. Program administrators shall participate and provide educational information at various events in the community and provide updates through the City of Flagstaff's website and other appropriate venues. The program shall promote Xeriscape and not "zeroscape" in landscape design.

### **D2 Water Use Restrictions and Regulatory Compliance**

Policy D2.1 the Water Conservation Section develops and maintains an ordinance that shall require less water consumption per capita yet enables the consumer to maintain an aesthetically attractive, comfortable and clean environment.

Strategy D2.1a The Water Conservation Section shall also partner with the Community Development Division and the Utilities Stormwater Section to ensure compliance with the codes these programs enforce. The Water Conservation program shall collaborate with these programs to develop additional strategies or programs to achieve future reduction in per capita water use.

Strategy D2.1b The Water Conservation Section shall develop and maintain Strategy Levels in the ordinance that defines the severity of each water shortage level and required cutbacks with pre-defined criteria regarding when each level goes into effect. (*City Code*)

Strategy D2.1c The Water Conservation program shall track water demand and consumption. This information shall be updated on a regular basis to be used in a variety of reports.



### **D3 Incentive Programs**

Policy D3.1 The Water Conservation Section should consider and develop a rebate program in the form of monetary credit on a customer's water bill in order to encourage the further conservation of the City's water supplies.

- Strategy D3.1a The criteria used to determine program products for rebates shall include at a minimum the water savings compared to the cost of implementing a specific water savings device (e.g. \$/gallons of water saved per unit device).
- Strategy D3.1b Metrics related to the water conservation rebate program shall be calculated to determine effectiveness of such programs and assist in developing future program parameters. Devices that created the greatest water savings will be used in future rebate programs. Ineffective devices will be replaced with ones that yield better water savings.

### **D4 Regional Participation**

Policy D4.1 The City of Flagstaff should participate in local and state-wide groups that promote water conservation.

- Strategy D4.1a The City of Flagstaff shall partner with the appropriate local events that include water conservation.
- Strategy D4.1b The City of Flagstaff shall attend informational meetings. That includes, but is not limited to, Arizona Department of Water Resources, InfoShare, and ReNEWS.

### **D5 Rainwater Harvesting**

Policy C5.1 The Water Conservation program shall work closely with the Stormwater Section to insure the same goals of conserving water are addressed in each program and are supportive of each other.

### **D6 Support of Riparian Areas**

Policy D6.1 The Water Conservation program should establish guidelines on how reclaimed water may be contracted for and used for the benefit of the environment and support of riparian habitat.

## **D7 Drought Planning**

The City's renewable water supplies are often impacted by short-term changes in local precipitation and would be severely impacted by any long-term changes in regional climate. The City will maintain a Drought Contingency Plan within its Water Conservation ordinance in order to establish policies, rules and penalties to be implemented when a water deficiency condition has been declared. *(partially in City Code)*

- Policy D7.1 The City shall maintain a Drought Contingency Plan and it should:
- a. Coincide with the Water Resources Master Plan,
  - b. Establish strategies and their goals, develop triggers for when each strategy shall be implemented,
  - c. Provide for authority and enforcement,
  - d. Communicate the difference between water conservation as a lifestyle and demand reduction as a drought response, and
  - e. Contain clear procedures on how the plan will be implemented, including provisions for informing the public.

- Policy D7.2 The Drought Contingency Plan goals should be:
- a. To protect public health and safety,
  - b. Aid in community-wide economic security,
  - c. Provide sufficient water to meet the needs of the City of Flagstaff water customers,
  - d. Allocate the impacts and hardships caused by drought equitably,
  - e. Minimize the disruption to the economy so that jobs are protected and regional economic stability is preserved, and
  - f. Provide options for updating or amending the Drought Plan by the City Council.

- Policy D7.3 The Drought Contingency Plan should define and establish triggers and water use restriction strategies.
- a. Consider defining multiple levels of water use restriction stages and strategies to reduce water consumption.
  - b. Consider defining triggers based upon infrastructure limitations.
  - c. Consider defining triggers based upon hydrologic supply limitations.

## **E. Stormwater**

The responsibilities of the Utilities Stormwater Section are categorized into stormwater quantity (flood control), stormwater quality, and watershed management. Some activities, such as Low Impact Development (LID), which captures stormwater for reuse and infiltration, address both water quality and quantity.

In general, the Stormwater Section's activities include a variety of mandated compliance programs including the FEMA Flood Insurance Program and the EPA mandated National Pollutant Discharge Elimination System (NPDES). The Section also manages Master Planning efforts, enforces stormwater design standards, and responds to drainage complaints received from citizens. The Section delivers a capital improvement program for drainage infrastructure improvements as well as managing a drainage maintenance program.

### **E1 Compliance**

Policy E1.1 The City shall make necessary and timely changes to ensure full compliance with Federal Emergency Management Association (FEMA) floodplain regulations, and the National Pollution Discharge Elimination System (NPDES) regulations administered by both the U.S. Environmental Protection Agency (USEPA) and the Arizona Department of Environmental Quality (ADEQ). (*City Code*)

Policy E1.2 The City will maintain contact with FEMA, USEPA, and ADEQ to remain up-to-date on pending and adopted regulatory changes, ensure that changes to City policies and ordinances necessary to remain in compliance are adopted and implemented, and provide necessary training and public outreach to customers to assist with compliance. (*City Code*)

### **E2 Flood Control**

Policy E2.1 The City will continually strive to improve the ranking in the Community Rating System (CRS) in order to provide discounted flood insurance for the community.

Policy E2.2 The City will continually strive to improve the accuracy of Flood Insurance Rate Maps

Policy E2.3 The City will partner with the Emergency Operations Center (EOC), Public Works Streets Section and other emergency responders to develop detailed policies and procedures for local and regional flood response scenarios.

Policy E2.4 By working with the Public Works Streets Section, ensure proper inventory of the drainage infrastructure and provide necessary funding for future years based on system growth and need.

### **E3 Stormwater**

Policy E3.1 The City shall conduct drainage master planning for all major (regulatory) watercourses in the City, adopt development standards that adhere to the results of the Master Plans, and explore funding sources for the construction of prioritized master plan projects. *(partially in City Code)*

Strategy E3.1a All public and private drainage infrastructure proposed to be constructed on watercourses included in the completed Master Plan should be constructed according to the results and recommendations within the Master Plan.

Strategy E3.2b The City should work with the US Army Corps of Engineers to secure funding for completion of the project that addresses including but not limited to the upper Rio De Flag and Clay Avenue watercourses.

Policy E3.2 The City's Stormwater Management Design Manual shall contain current design and inspection requirements for private development drainages. *(City Code)*

Policy E3.3 The City shall respond to drainage complaints within 24 hours of receipt and provide timely resolution.

Policy E3.4 The City's shall provide appropriate credits for the stormwater quantity and quality improvements outlined and periodically updated in the Stormwater Credit Manual. *(City Code)*

Policy E3.5 The City shall promote the direct use of stormwater as a water conservation tool and develop best management practices to capture and use stormwater in a variety of ways for a variety of uses.

Policy E3.6 Drainage improvements should be designed to promote infiltration, when practical. The use of concrete and closed conduits shall be discouraged. *_(partially in City Code)*

Policy E3.7 The City shall develop and maintain a capital drainage improvement program (DRIP) and work cooperatively with the Public Works Streets Section to complete small-scale drain improvements.

Policy E3.8 The City shall continually seek to evaluate the feasibility of alternative, less costly approaches to stormwater management. Such approaches may include exploring Green Streets as a solution for drainage problems, creating LID demonstrations or pilot projects as part of any City funded projects, and developing incentives for LID demonstrations and pilot projects on private developments.

## **E4 Watershed Management**

Policy E4.1 To protect the City's water supply and quality, the City will actively seek to encourage implementation of watershed restoration projects both within City boundaries and on lands owned or managed by private and public entities.

Strategy E4.1a The City shall partner with the "Stream Team," whose mission is to identify opportunities for restoration maintenance and preservation of streams, washes, and open channels within City limits, and work with neighborhoods, community representatives and other jurisdictions to ensure successful implementation of watershed restoration projects.

Strategy E4.1b The City will partner with a variety of private and public entities to support the implementation and maintenance of watershed restoration programs on parcels beyond the City limits that have a benefit to the City.

## **F. Infrastructure**

### **F1 Water System Capacity Redundancy**

Surface water supplies can be subject to interruptions and reduced or unavailable supply for a variety of reasons including drought, water quality, or infrastructure failure. Groundwater supplies can also be subject to interruptions for several reasons, including water quality and infrastructure failure. Therefore, having redundant (back-up) water supply sources and the necessary infrastructure to deliver that supply is good business practice. The purpose of requiring redundancy in our infrastructure is to ensure reliable water delivery to municipal customers in the event of a disruption of the City's primary water supply.

Policy F1.1 The City should develop system infrastructure as follows:

- Strategy F1.1a The water system must be designed to provide an uninterrupted supply of water during peak hourly demand with a minimum supply pressure of 40 pounds per square inch (psi) at the supply point for Maximum Probable Development (MPD) and for an economical life of not less than 50 years; *(City Code)*
- Strategy F1.1b The public water supply system must be designed for the MPD of the entire subdivision and any undeveloped land beyond and in accordance with the zoning code.

Policy F1.2 The City should maintain a diversified water resource portfolio in order to maintain an adequate redundant water supply by constructing the necessary infrastructure to treat, deliver and interconnect the City's diverse water portfolio.

Policy F1.3 The City should maintain sufficient water storage in order to maintain an adequate redundant water supply by considering the following:

- Strategy F1.3a The basic objectives of water storage facilities are to help meet peak flow requirements, to equalize system pressures, and to provide emergency water supply, such as fire flow requirements. *(City Code)*
- Strategy F1.3b Water storage capacity shall be met by use of ground or subsurface mounted types of storage tank facilities installed at an elevation above the upper zone boundary elevation of that portion of the distribution system it serves. Elevated water storage can also be referred to as gravity storage tanks or reservoirs. Elevated pedestal mounted water storage tanks shall not be used.

**Policy F1.4** The City should maintain a water pipeline redundancy in order to maintain an adequate redundant water supply by considering the following:

- Strategy F1.4a Redundancy in the water distribution system is one way that the City can ensure reliability in delivering water to both residential and commercial customers.
- Strategy F1.4b Consider adding redundancy within the distribution system when replacing facilities that have reached the end of economic life or when performing repairs on existing facilities that require wholesale customer outages and the costs of redundancy are less than the avoided risk costs.
- Strategy F1.4c Redundant distribution water mains may be required to parallel transmission mains in order to meet water demands during a transmission main outage.

## **F2 Water System Capacity Allocation**

This policy relates to how the City of Flagstaff will plan and allocate the water system capacity available for new development. The primary purpose is to avoid exceeding the flow capacity of pipeline infrastructure and water production and treatment capacity. The benefit to the community is to ensure the public's trust in the City's water system and provide for long-term planning tool for community sustainability. This policy relates strictly to the tracking and commitment of the City's "paper water" peak day demands and is allocated on a "first in time, first in right" principle. Infrastructure requirements are addressed in Policy G1 – Utilities Master Planning.

**Policy F2.1** It is the intent of the Utilities Division to provide adequate water system capacity to meet the City's future development needs. In order to timely provide these services it will be Division policy to plan for future infrastructure, water production and treatment capacity needs by adopting the following benchmarks:

- Strategy F2.1a At 80% of committed peak day demand – the Utilities Division will identify additional sources, treatment capacity needs, funding options, start design and necessary land acquisition for increased capacity needs.
- Strategy F2.1b At 85% of committed peak demand - the Utilities Division will begin construction to expand necessary facilities.
- Strategy F2.1c At 95% of committed peak demand – the Utilities Division will have completed construction and all necessary regulatory agency permits will have been obtained and begin full operation.

Policy F2.2 Communication: The Utilities Division will provide the primary point of contact for all staff-level communication with both the Arizona Department of Environmental Quality and the USEPA on water quality related issues.

Policy F.2.3 Water System Capacity Allocation Program: The Utilities Division shall track and monitor existing and proposed water demands to prevent the pipeline and treatment plants from exceeding the permitted design flow capacity and prevent outages or curtailments from occurring. Flows shall be based on the applicant's build-out water flow basis not actual flows. Any differential between actual flows and the development's build-out water flow basis that occurs is not available to the applicant for re-allotment to another project or project expansion.

Strategy F2.3a The Utilities Division shall conduct hydraulic modeling studies, (known as a Water-Sewer Impact Analysis) necessary to estimate water infrastructure impacts considering existing and proposed demands per City Engineering standards. These studies shall be reviewed and updated on a regular basis as more technical information becomes available. *(City Code)*

Strategy F2.3b The Utilities Division will use water demand data submitted during the Inter Departmental Staff Review Board process to estimate the Developer's water demand needs at build out. *(City Code)*

Strategy F2.3c The Utilities Division will commit, track and set aside with different time periods the necessary water system capacity (peak day water flow) for all new Subdivision Final Plats and new projects developed in accordance with their existing zoning designation on the Zoning Map. Annual peak day water capacity requirements for Major Regional Plan Amendments shall also be tracked but not committed or set aside.

Strategy F2.3d The developer will be required to obtain a building or grading permit within the specified timeframes outlined below or risk losing the committed water system capacity:

- Subdivision Final Plat – there will be no time limit on the reservation of the water system capacity committed for a subdivision final plat approved by the City Council, and it is not transferrable to any other project or land.
- Zoning Map Amendment and Minor Amendments to the Regional Plan – for such new development, water resources and Utilities Water-Sewer Impact Analysis will only be committed for no longer than the time frame associated with the zone change approval within which the applicant has to commence construction subject to the conditions stipulated by the City Council.



- Major Amendments of the Regional Plan – there will be no reservation of committed water system capacity for these amendments (i.e., capacity will be tracked but not committed or set aside).

Strategy F2.3e      Developments that require water system capacity infrastructure which are not included within with Utilities Division 10-year Capital Improvement Plan or those that create water system capacity requirements beyond what the existing water system can provide shall be treated on a case by case basis. After a Water-Sewer Impact Analysis is conducted, the Utilities Division may require the developer to upsize water infrastructure off-site, dedicate an existing well, drill a new well or multiple wells necessary to meet the developments “average daily” capacity requirements. The Utilities Division should develop criteria for when a well or multiple wells will be required to be funded separately by the Developer. The Utilities Division will be responsible to provide the difference between the development’s “average day” and “peak day” water system capacity requirements.

Strategy F2.3f      Developments that require water storage capacity infrastructure which are not included in the current 10 year Capital Improvement Plan or those that create water storage requirements beyond what the existing water storage facilities shall be treated on a case by case basis. In order to meet regulatory requirements for water storage, the Utilities Division may require the developer to fund and construct storage tank(s) equal to their “average day” water demands. The Utilities Division should develop criteria for when a storage tank(s) will be required to be funded separately by the Developer. The water storage tanks must be placed at an elevation that will provide adequate pressure for the Zone. It is the developer’s responsibility to obtain the appropriate land and right-of-way required to place the tank(s) and convey the water from the tank(s) to the site.

### **F3 Sewer System Capacity Allocation**

This policy relates to how the City of Flagstaff will plan and allocate the sewer system capacity available for new development. The primary purpose is to avoid exceeding the flow capacity of pipeline infrastructure and wastewater plant treatment capacity. The benefit to the community is to ensure the public’s trust in the City’s sewer system, avoiding public health hazards and provide for long-term planning tool for community sustainability. This policy relates strictly to the tracking and commitment of the City’s “paper sewer” demands and does not address the future infrastructure requirements needed to support

build out. Infrastructure requirements are addressed in Policy G.1 – Utilities Master Planning.

Policy F3.1 It is the intent of the Utilities Division to provide adequate sewer system capacity to meet the City's future development needs. In order to timely provide these services it will be department policy to plan for future infrastructure and treatment capacity needs by adopting the following benchmarks:

Strategy F3.1a At 75% of actual flow capacity - the Utilities Division will identify additional treatment capacity and funding options.

Strategy F3.1b At 80% of actual flow capacity – the Utilities Division will begin design and necessary land acquisition for increased capacity needs.

Strategy F3.1c At 85% of actual flow capacity – the Utilities Division will begin construction of expanded facilities.

Strategy F3.1d At 95% of actual flow capacity – the Utilities Division will have completed construction and all necessary regulatory agency permits will have been obtained and begin full operation.

Policy F3.2 Communication: The Utilities Division will provide the primary point of contact for all staff-level communication with both the ADEQ and the USEPA on sewer discharge regulatory related issues.

Policy F3.3 Sewer Capacity Allocation Program: The Utilities Division shall track and monitor existing and proposed sewer flows to prevent the pipeline and treatment plants from exceeding the permitted design flow capacity and prevent sanitary sewer overflows from occurring. Sewer Capacity Assurance tracking shall be in accordance with Arizona Administrative Code (AAC) R18-9-E301(C)(2) and in compliance with the ADEQ guidelines on an ongoing basis. (*partially in City Code*)

Strategy F3.3a The Utilities Division shall conduct hydraulic modeling studies (known as Water-Sewer Impact Analysis) necessary to estimate sewer infrastructure impacts considering existing and proposed demands per City Engineering standards. These studies shall be reviewed and updated on a regular basis as more technical information becomes available. (*City Code*)

Strategy F3.3b The Utilities Division will use sewer demand data submitted during the Interdivisional Development Review Board process to estimate the Developer's sewer demand needs at build-out. (*City Code*)

- Strategy F3.3c The Utilities Division will commit, track and set aside with different time periods the necessary sewer system capacity (average daily design flow at build-out) for all new Subdivision Final Plats and existing zoning grading plans that are approved by the City Council. Annual average daily sewer capacity requirements for Major amendments shall also be tracked but not committed or set aside. The projected average daily sewer flow shall be calculated using the City of Flagstaff Engineering Standards and/or the sewer unit design flow tables contained within the Arizona Administrative Code (AAC) R18-9-E301 Table 1.
- Strategy F3.3d The developer will be required to obtain a building or grading permit within the specified timeframes outlined below in accordance with the conditions of the Zoning Map Amendment approval or risk losing the committed sewer system capacity:
- Subdivision Final Plat – there will be no time limit on the reservation of the sewer system capacity committed for a subdivision final plat approved by the City Council, and it is not transferrable to any other project or land;
  - Zoning Map Amendment and Minor Amendments to the Regional Plan – the Utilities Water-Sewer Impact Analysis reservation of a committed sewer demand for the approved conditions of the amendments will be no longer than a 2-year timeframe in accordance with Division 10-20.50 of the Zoning Code and subject to the conditions stipulated by the City Council;
  - Major/Minor Amendments of the Regional Plan – there will be no reservation of committed sewer system capacity for these amendments (i.e., capacity will be tracked but not committed or set aside).
- Strategy F3.3e Developments that require sewer system capacity infrastructure which are not included within with Utilities Division 10-year Capital Improvement Plan or those that create sewer system capacity requirements beyond what the existing sewer system can provide will be treated on a case by case basis. After a Water-Sewer Impact Analysis is conducted, the Utilities Division may require the developer to upsize sewer infrastructure off-site to meet the developments “average daily” capacity requirements. The Utilities Division should develop criteria for when upsizing will be required to be funded separately by the Developer.
- Strategy F3.3f Each new development, Zoning Map Amendment or a Major/Minor amendment to the Regional Plan will submit to the City an estimate of the maximum number of units (both

residential and non-residential) and the average daily sewer design flow their development will require at built-out.

Strategy F3.3g The Community Development, Economic Vitality and Utilities Divisions will coordinate regarding the City's available uncommitted sewer capacity that can be allocated to priority developments shown in the voter approved Regional Plan. This will occur before approving any new extension, variance, or other changes to any final site or construction plans that results in the allocation of sewer capacity beyond that what was originally approved.

Policy F.3.4 Compliance: The City shall maintain its Designation as an Arizona Pollutant Discharge Elimination System Site and the permitted discharge limits as determined by the ADEQ. Additionally, City of Flagstaff will submit a report to ADEQ for any new subdivision, site, system extension or collection system expansion as currently required by law.

#### **F4 Water and Sewer Service Outside City Limits**

The City of Flagstaff provides water and sewer service to some areas outside its City corporate limits. These areas include unincorporated areas of Coconino County such as portions of Doney Park, Camp Townsend, Pine Del, Ft. Tuthill and county islands within Flagstaff corporate limits. The purpose of this policy is to describe the conditions, requirements, and procedures for obtaining City of Flagstaff water (i.e., potable) and sewer service connections to areas located outside the corporate limits of the City of Flagstaff. Water and sewer service to new customers outside the City limits is solely within the City's discretion.

Policy F4.1 The City will consider out of city requests for service from customers in Unincorporated County Areas that are located within or contiguous to the City of Flagstaff corporate limits using the following criteria:

Strategy F4.1a The Unincorporated County Areas shall agree to be annexed into the City of Flagstaff. This provision only applies to new customers; existing customers are "grandfathered"

Strategy F4.1b The property requesting annexation must be within or contiguous to the City of Flagstaff corporate boundary.

Strategy F4.1c Water or sewer main extensions will be permitted only after annexation of the property is completed and approved by the City Council or where all property owners have signed a pre-Annexation Agreement and it is approved by City Council.

- Strategy F4.1d Requests for service shall be evaluated by a cross-divisional internal team. The City will consider the economic value, potential costs to existing ratepayers, operation and maintenance costs, impacts to water resources, adequateness of infrastructure, and regional land use plans prior to granting service requests.
- Strategy F4.1e Requests for service within other jurisdictions that are not described above will require an Intergovernmental Agreement (IGA) between the City and the other jurisdiction.
- Strategy F4.1f Deviation from this policy will require City Council approval.
- Strategy F4.1g Utility line extensions may require a Water-Sewer Impact Analysis. Requirements for water and sewer extensions shall be outlined within this analysis.

Policy F 4.2 The City's general policy for providing retail water service to new customers outside the City is within the City's discretion and will depend on the property's location and the City's obligation for providing water service and consider the following:

- Strategy F4.2a The City may allow a water service connection if a property fronts an operating water main that is less than 16-inches in diameter, (mains 16-inches and larger are transmission mains that are not intended for tapping), there is sufficient capacity in the system to meet peak hour fire flows, and all City Code and Engineering Design Standards associated with obtaining water service are met. *(City Code)*
- Strategy F4.2b All service connections and main extensions shall comply with all applicable standards and code requirements, including, but not limited to, Flagstaff City Code, City of Flagstaff Engineering Design Standards, International Fire Code, and Maricopa Association of Governments (MAG) Standards. *(City Code)*
- Strategy F4.2c Service connections and main extensions shall be located in public right-of-way meeting the standards of the City of Flagstaff. An easement, license or non-revocable permit is required for main extensions in the public right-of-way. If the service connection or main extension cannot be installed in right-of-way, a dedicated easement meeting City of Flagstaff design

requirements will need to be approved by the City of Flagstaff Utilities Division. (*City Code*)

Strategy F4.2d The City may provide service through a water service connection if a property fronts an operating City water distribution main, the main is within the correct pressure zone (less than 16-inches in diameter), there is sufficient capacity in the water system, and all City Code and COF Engineering Design Standards associated with obtaining water services are met. (*City Code*)

Strategy F4.2e Applicants shall be required to pay all applicable outside City of Flagstaff development fees, capacity fees, connection fees, repayment agreement fees, and permit fees. (*City Code*)

Strategy F4.2f The property to be served shall meet the same infrastructure development standards required of properties within the City of Flagstaff. (*City Code*)

Strategy F4.2g The City has the authority to deny or discontinue service if the service connection could threaten or endanger the safe, efficient and adequate service.

Strategy F4.2h The current outside City water service areas are shown and updated from time to time in the Water System Master Plan.

Policy F4.3 The City's general policy for providing retail sewer service to outside City customers is within the City's discretion and will depend on the property's location and considering the following:

Strategy F4.3a The City may allow a sewer service connection if a property fronts an operating sewer main that is less than 18-inches in diameter, (mains 18-inches and larger are interceptor sewers that are not intended for tapping), there is sufficient capacity in the system to meet peak hour wastewater flows, and all City Code and Engineering Design Standards associated with obtaining sewer service are met. (*City Code*)

Strategy F4.3b Under no circumstances will services be allowed into existing manholes. (*City Code*)

Strategy F4.3c Sewer service within other jurisdictions that are not described above will require an Intergovernmental Agreement (IGA)

between the City and the other jurisdiction, which must be approved by the City Council

Strategy F4.3d All service connections and main extensions shall comply with all applicable standards and code requirements, including, but not limited to, Flagstaff City Code, City of Flagstaff Engineering Design Standards, International Building Code, and Maricopa Association of Governments (MAG) Standards. *(City Code)*

Strategy F4.3e Service connections and main extensions shall be located in public right-of-way meeting the standards of the City of Flagstaff. An easement, license or non-revocable permit is required for main extensions in the public right-of-way. If the service connection or main extension cannot be installed in right-of-way, a dedicated easement meeting City of Flagstaff design requirements will need to be approved by the City of Flagstaff Utilities Division. *(City Code)*

Strategy F4.3f Applicants shall be required to pay all applicable outside City of Flagstaff development fees, capacity fees, connection fees, repayment agreement fees, and permit fees. *(City Code)*

Strategy F4.3g The property to be served shall meet the same infrastructure development standards required of properties within the City of Flagstaff. *(City Code)*

Strategy F4.3h The City has the authority to deny or discontinue service if the service connection could threaten or endanger the safe, efficient and adequate service.

Strategy F4.3i The current outside City sewer service areas are shown and updated from time to time in the Wastewater System Master Plan.

**F5 Service Area Expansion (reserved for the future)**

**F6 Service Area Expansion- annexation (reserved for the future)**

## **G. Master Planning**

### **G1 Utilities Master Planning**

The City has developed and maintained water, wastewater and reclaimed water treatment and distribution/collection systems in order to provide a high level of water services to its citizens and customers. These systems should conform and support the orderly growth identified in the Regional Plan (i.e., General Plan as defined in ARS §9-461 et. al.), employ sound water management principles, meet or exceed all Federal and State water quality requirements, provide for adequate fire suppression and stormwater drainage for the benefit of public health and safety.

The City should first undertake a water resource master planning effort. The purpose of this planning should be to provide a guide to quantify the long-term needs for water resources, and identify future supply options and/or demand management opportunities including their respective costs. Additionally, this plan should support the City in maintaining its 100-year Designation of Adequate Water Supply as confirmed by the Arizona Department of Water Resources and within Policy B2 – Water Adequacy.

The City should then undertake infrastructure related master planning efforts in successive steps that utilize the information from each preceding planning effort to build upon one another. The sequence of planning should be completing the water infrastructure system, followed by the wastewater infrastructure system and then the reclaimed water infrastructure system. The purpose of conducting these planning efforts in sequence is to utilize common data between them to ensure continuity and integration of each of the systems. The last master planning effort in the sequence that spans across all three (3) of the infrastructure plans is to evaluate the Utilities implementation of technology, specifically its process control and monitoring system known as a Supervisory Control and Data Acquisition (SCADA) system.

**Policy G1.1** The City will prepare or update a Water Resource Master Plan every five (5) years that considers the following:

Strategy G1.1a Existing legal water rights to the supplies it currently uses or possesses.

Strategy G1.1b Projected population and land use information contained within the voter approved Regional Plan in order to estimate water demands for a minimum of 30 years into the future (i.e., short-term planning) and at build-out (i.e., long-term planning). The maximum target population density of the Regional Plan should be used for water demand estimates unless determined otherwise.



Strategy G1.1c The technique of Scenario Planning or its equivalent should be employed when estimating future water supply needs of the City. The planning should anticipate a range of future plausible outcomes (e.g., wet v. dry climate; fast v. slow growth rates) and describe recommendations and choices the City can make in the short and long term. The planning should avoid predicting a single plausible future and then recommend water management options for only that sole outcome.

Strategy G1.1d Identification of the types and volumes of hydrologic water supplies (i.e., surface water v. groundwater) in order to assist in determining the necessary infrastructure (e.g., treatment plants or wells) during the Infrastructure master planning effort.

Strategy G1.1e Develop average annual water use factors for each type of land use (e.g., single family, multi-family, hotel, commercial, industrial, etc). Water use factors should be quantified in terms of Gallons per Capita per Day (GPCD), Gallons per House per Day (GPHD) or Gallons per Acre per Day (GPAD), as appropriate.

Strategy G1.1f Identify future water supply options and recommendations while considering the City's Adequate Water Supply Designation.

Strategy G1.1g This section should include options on how the City can better manage or optimize the supplies it currently relies upon (e.g., water conservation, rainwater harvesting, etc.) in addition to identifying new future water resources, as appropriate. All options should include their estimated cost on an acre-foot per year basis for comparison purposes.

Policy G1.2 The City will prepare a Water System Master Plan every five (5) years beginning the following year after the completion of the Water Resources Master Plan that considers the following:

Strategy G1.2a Use all of the information and assumptions contained within the Water Resources Master Plan.

Strategy G1.2b Identifying the necessary infrastructure (e.g., treatment plants and/or wells) to treat and deliver the water supplies identified within the Water Resources Master Plan in order to meet projected water demands. The regulatory requirements of the USEPA, ADEQ and any other applicable water quality rules or regulations.

Strategy G1.2c Development of average and peak water demand factors.

Strategy G1.2d Development and calibration of a hydraulic model of the water distribution system in order to assist in evaluating the optimum operations, water quality and infrastructure sizing. Update this model annually to account for changes in the Regional Plan and/or changes in development patterns.

Strategy G1.2e Development of a Capital Improvement Program, including capital, operation and maintenance costs, in order to develop and maintain a robust water distribution system to provide a high level of water service to Flagstaff customers. *(City Code)*

Policy G1.3 The City will prepare a Wastewater System Master Plan every five (5) years that considers the following:

Strategy G1.3a Use all of the appropriate information and assumptions contained within the Water Resources and Water System Master Plans.

Strategy G1.3b Identifying the regulatory requirements of the USEPA, ADEQ and any other applicable water quality rules or regulations.

Strategy G1.3c Average and Peak wastewater flow.

Strategy G1.3d Development and calibration of a hydraulic model of the wastewater collection system in order to assist in evaluating the adequacy of the existing system to accommodate varying wastewater flow conditions, and identify wastewater system modifications and expansions necessary to accommodate future flows. Update this model annually to account for changes in the Regional Plan and/or changes in development patterns.

Strategy G1.3e Review current solids handling practices at existing wastewater treatment plants and determine future solids handling requirements based on estimated wastewater flow projections.

Strategy G1.3f Development of Capital Improvement Program, including capital, operation and maintenance costs, in order to develop and maintain a robust wastewater collection system to provide a high level of wastewater service to Flagstaff customers. *(City Code)*

Policy G1.4 The City will prepare a Strategic Technology Master Plan specifically looking at the Utilities use of a Supervisory Control and Data Acquisition System (SCADA), Computerized Maintenance Management System (CMMS) and Geographic Information System (GIS) every (3) years due to the rapid change in technology and should considers the following:

Strategy G1.4a Evaluate the use of technology within the utility industry as it relates to supporting the business goals and objectives of the department.

Strategy G1.4b Technology should be aligned with the City enterprise systems.

Strategy G1.4c Evaluate the use of technology within the following application areas:

- i. Computerized Maintenance Management Systems
- ii. Electronic Operation & Maintenance Manuals-future
- iii. Geographic Information System-Utility based applications
- iv. Mobile Wireless Computing
- v. Inter and intra-facility Networking (WAN and LAN)
- vi. Modeling
- vii. Application integration
- viii. Provide Process Control & Monitoring (SCADA)
- ix. Information Technology Security
- x. Water Quality and Laboratory Information Management
- xi. Web and e-Business

Strategy G1.4d Develop a list of recommended projects to be implemented, including their capital cost, annual operation and maintenance costs, man-hours to implement and levels of support required.

## **H. Regional Cooperation and Leadership**

The City is often engaged in numerous regional/state-wide organizations to develop policy or position statements on water issues that impact Flagstaff. These have included being active with the Northern Arizona Municipal Water Users Association, Arizona Department of Water Resources (ADWR), Federal Emergency Management Agency (FEMA), USEPA, ADEQ, Northern Arizona University (NAU), U.S. Bureau of Reclamation (BOR), U.S. Geological Survey (USGS), Coconino Plateau Water Advisory Committee (CPWAC), Salt River Project, Central Arizona Project, and various State-led forums. Additionally, the City will continue to work collaboratively with Coconino County, the Navajo Nation and Hopi Tribe regarding regional water issues. Since water management decisions made today have long term implications, it is prudent that the City remains involved in influencing regional and State water policy and should consider the following:

### **H1 Collaboration with Tribal Governments**

Policy H1.1 The City should foster and maintain professional relationships with the tribal governments of the Navajo Nation and Hopi Tribe regarding regional water issues.

Strategy H1.1a the Mayor or their designee should establish and maintain a professional relationship with the elected officials of each tribe in order to stay informed, work collaboratively and influence policy decisions that may affect the City of Flagstaff's water supplies.

Strategy H1.1b the City Manager or their designee should establish and maintain a professional relationship with the government officials of each tribe in order to stay informed, work collaboratively and influence policy decisions that may affect the City of Flagstaff's water supplies.

Strategy H1.1c the Utilities Division staff should establish and maintain a professional relationship with the water resource staff of each tribe in order to stay informed, work collaboratively and influence policy decisions that may affect the City of Flagstaff's water supplies.

### **H2 Collaboration with Water Agencies, and Associated Water Groups**

Policy H2.1 The City should foster and maintain professional relationships with water management, water quality, flood control and water delivery agencies.

Strategy H2.1a the Mayor or their designee should establish and maintain a professional relationship with the appropriate counter-parts within these organizations in order to stay informed, work collaboratively and influence policy decisions that may affect the City of Flagstaff's water supplies.

Strategy H2.1b the City Manager or their designee should establish and maintain a professional relationship with the appropriate counter-parts within these organizations in order to stay informed, work collaboratively and influence policy decisions that may affect the City of Flagstaff's water supplies.

Strategy H2.1c the Utilities Division staff should establish and maintain a professional relationship with the appropriate counter-parts within these organizations in order to stay informed, work collaboratively and influence policy decisions that may affect the City of Flagstaff's water supplies.

### **H3 Water Rights Acquisition**

Policy H3.1 The City should demonstrate regional leadership in water management and water policy by participating in:

- a. Competition for limited renewable water supplies.
- b. Protection of existing water rights and water supplies.
- c. Protection of environmentally sensitive riparian areas.
- d. Collaboration/partnerships with adjacent water providers.
- e. Water source and infrastructure financing.
- f. ADWR Water Adequacy and Management Plans.
- g. Intergovernmental and interagency relationships.
- h. Collaborate National Pollutant Discharge Elimination System (NPDES) compliance efforts with other jurisdictions.
- i. Maintain relationships with FEMA and ADWR respecting flood control and National Flood Insurance Program (NFIP) issues.

## **I. Water Security**

The Mission of the City of Flagstaff Utilities Division is to provide safe water, sewer, and stormwater services to the City of Flagstaff customers and to utilize reclaimed water as a significant water management tool. Drinking water safety and maintaining security of the City's wastewater and stormwater collection systems is a primary concern of the Utilities Division for utility system employees and the community.

### **I1 Water Supply Security**

Policy I1.1 The Utilities Division shall follow the recommendations of the Public Health Security and Bioterrorism Preparedness and Response Act enacted by the Federal Government and the Water System Vulnerability Assessment prepared in November 2003 and their updates specifically prepared to follow this guidance act.

Strategy I1.1a Security - Implement security improvements as funds become available as recommended in the vulnerability assessment reports.

Strategy I1.1b Assessment – conduct updates to vulnerability assessments on a periodic basis and maintain confidentiality of any vulnerabilities identified.

### **I2 Infrastructure Security**

Policy H2.1 The Utilities Division shall limit access to the public from sensitive information and critical areas of the utility infrastructure in order to minimize the threat of attack or compromise of the Utilities Division's services. The Utilities Division develops an annual Report to the Water Commission that contains a variety of potential sensitive infrastructure information.

Strategy I2.1a Restrict Tours - Restrict public tours of the treatment facilities and/or limit access to critical portions of the plants.

Strategy I2.1b Limit Information to Public - Balance the public's right to know versus Utilities need for public safety. Develop guidelines on restrictions to the public including access to the annual Report to the Water Commission.

Strategy I2.1c Report Suspicious Behavior - Utilities Division staff need to be aware of and report suspicious behavior near critical facilities.

Strategy I2.1d

SCADA Information Security - The Utilities Division treatment plant facilities utilize a process control and monitoring system known as a Supervisory Control and Data Acquisition (SCADA) system in order to track information electronically and safely operate and control each treatment plant. These SCADA systems need to be physically isolated from all other computer networks and their network access restricted to minimize their potential to be infected by virus or malicious intent.

**I3 Discharge Control for Sanitary and Stormwater Systems**

Policy I3.1 Utilities shall maintain programs to control the type of materials and substances that are allowed to be discharged or placed into the sanitary and stormwater systems.

DRAFT



## **APPENDIX 1**

### **City Council Resolution #2014-14**

DRAFT

**RESOLUTION NO. 2014-13**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF  
ADOPTING THE *UTILITIES INTEGRATED MASTER PLAN: PRINCIPLES OF  
SOUND WATER MANAGEMENT, WATER POLICIES CHAPTER* AS THE  
WATER POLICY FOR THE CITY OF FLAGSTAFF**

**RECITALS:**

WHEREAS, the Water Commission, with the assistance of the Utilities Division of the City of Flagstaff, prepared a draft of the proposed *Utilities Integrated Master Plan: Principles of Sound Water Management, Water Policies Chapter* (the "Water Policy"); and

WHEREAS, the City Council has reviewed the recommendations of the Water Commission and the Utilities Division regarding the Water Policy; and

WHEREAS, the City Council held ten (10) meetings, received public comments, and edited the draft Water Policy; and

WHEREAS, a comprehensive Water Policy is essential to the current needs and future plans for the City of Flagstaff;

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF  
AS FOLLOWS:**

SECTION 1. The Water Policy is hereby adopted.

SECTION 2. The Utilities Division and the City Clerk are authorized and directed to edit and correct typographical and grammatical errors of wording and punctuation.

This resolution shall be effective thirty (30) days following adoption by the City council.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this _____ day of _____, 20__.

_____  
MAYOR

ATTEST:

_____  
CITY CLERK

APPROVED AS TO FORM:

_____  
CITY ATTORNEY

**CITY OF FLAGSTAFF**  
**STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Roger Eastman, Zoning Code Administrator  
**Date:** 03/24/2014  
**Meeting Date:** 04/01/2014



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**TITLE:**

**Consideration and Adoption of Ordinance No. 2014-07 and Resolution No. 2014-10:** Resolution No. 2014-10 Declaring the proposed amendments as a public record; and adoption of Ordinance No. 2014-07, Adopting Amendments to that certain document entitled "Division 8-03-002, Sidewalk Cafes, Sidewalk Vending Carts and Other Permitted Encroachments" ***(An ordinance deleting North Downtown Business District Encroachment Policy, and replacing it in its entirety with Sidewalk Cafes, Sidewalk Vending Carts, and Other Permitted Encroachments)***

**RECOMMENDED ACTION:**

- 1) Adopt Resolution No. 2014-10
- 2) Read Ordinance No. 2014-07 for the final time by title only
- 3) City Clerk reads Ordinance No. 2014-07 by title only (if approved above)
- 4) Adopt Ordinance No. 2014-07.

**Policy Decision or Reason for Action:**

The proposed amendments to City Code Division 8-03-002, Sidewalk Cafes, Sidewalk Vending Carts and Other Permitted Encroachments establish updated standards and review procedures for sidewalk cafes and sidewalk vending carts in the downtown and other certain commercial zones.

Subsidiary Decisions Points: A key policy decision will concern the establishment of a defensible procedure for calculating an appropriate license rate that is fair and reasonable to business owners and that also reasonably compensates the City for the use, by private individuals, of City sidewalks.

**Financial Impact:**

The proposed amendments establish a new uniform fee for processing the application for a sidewalk café, vending cart, or other encroachment, as well as a uniform methodology for establishing a license rate for the use of public sidewalks by a business owner for a sidewalk café or vending cart.

**Connection to Council Goal:**

11. Effective governance

## **Has There Been Previous Council Decision on This:**

At the October 8, 2013 Work Session, the Council reviewed and discussed suggested amendments to Division 8-03-002 developed by staff, received public comment, and provided staff with specific direction on an appropriate path forward. At the March 18, 2014 meeting, Council directed staff to provide options for the determination of a license rate (formerly called a lease rate), as well as other minor amendments.

## **Options and Alternatives:**

Please refer to the Expanded Options and Alternatives below.

## **Background/History:**

Sometime in the early 1970's, the City Council adopted the North Downtown Business District Encroachment Policy as Division 8-03-002 of the Flagstaff City Code. This ordinance, which was updated in 1996 and 1997, established standards and procedures for the review and approval of commercial encroachments (including sidewalk cafes and vending carts) as well as for permitted encroachments by certain structures (including, for example, overhead encroachments, excavations, and basement access) and encroachments by other activities and objects such as construction, bicycle racks, newspaper vending machines, etc.

Division 8-03-002 was specifically written to allow sidewalk cafes and sidewalk vending carts in downtown Flagstaff only, and hence no such encroachments may be permitted in other areas of the City, including the Southside. Many existing Southside businesses have been frustrated because of their inability to establish sidewalk cafes in public right-of-way.

Following Council discussion of this issue in October last year, staff from the City Attorney's office and the Community Development Division has developed amendments to this Division. The draft ordinance incorporates ideas for simplifying and clarifying an approach for the review and issuance of permits for sidewalk cafes and sidewalk vending carts in most commercial zones within the City.

## **Key Considerations:**

Staff has completed amendments to Division 8-03-002 of the Flagstaff City Code. Currently this Division is called "North Downtown Business District Encroachment Policy", and it will be renamed as "Sidewalk Cafes, Sidewalk Vending Carts, and Other Permitted Encroachments".

The amendments to this Division are based on some of the provisions in Division 8-03-002 which have been kept, as well as ideas from a variety of other cities, including Portland, OR, Seattle, WA, Salt Lake City, UT, Minneapolis, MN, and Redwood City, CA. In the narrative below, staff will describe the principal sections and provisions of the proposed draft ordinance.

Reorganization of the Division. This Division has been reorganized so that, for example, the definitions and appeals sections have been consolidated and certain sections have been rearranged so that the document is more logically organized. The definitions are also arranged alphabetically. A new definition for "license rate" to replace the term "lease rate" has been added, as has a definition for "public way or public right-of-way".

1. Illustrations. The Division includes illustrations to make it easier to understand key terms, such as "area of operation" and "clear pedestrian zone".
2. Applicability. The proposed standards apply to all commercial zones in the City except for the Suburban Commercial (SC) Zone. This is an important difference from the current standards which apply only to the downtown area, currently designated as the Commercial Business (CB) Zone. The proposed ordinance, therefore, would allow business owners in the Southside neighborhood or

elsewhere in the City to apply for a sidewalk encroachment permit.

3. Types of encroachments. The amendments provide standards for three types of encroachments. Permits for sidewalk cafes and sidewalk vending carts encroachments will be administered by Comprehensive Planning and Code Administration Program staff. Staff from the Development Engineering Program will continue to manage the encroachment permits required for work by public and private utilities in the right-of-way, driveway construction, and trash dumpsters placed in the right-of-way when there is no room on a property for them during construction.
4. Application fee. The amendments contemplate that all applications for sidewalk cafes and sidewalk vending carts will be required to pay an "application fee" to cover the administrative costs of accepting, reviewing and issuing a permit by staff. As changes to the City's fee schedule are required by Arizona law to be posted to the City's website for a minimum of 60 days before Council action on the fee, Council consideration of this application fee will be scheduled at a later date when amendments to the City's Fee Schedule will be submitted to the Council for review and approval.
6. Annual Lease License rate: ~~At the March 18th meeting. Council asked staff to develop clearer terminology than the term "lease rate". Staff suggests that the term "license rate" is more applicable to refer to the cost per square foot for the use of public sidewalks, while the term "annual total cost" refers to the total amount paid annually for the use of the sidewalk. The amendments to Division 8-03-002 also contemplate an annual lease rate, the purpose of which is to compensate the City for use of public sidewalks for commercial purposes. The need for the license rate arose when it was realized that sidewalk cafes located on Heritage Square were required to pay a license fee for the use of this public space as part of their lease agreements, whereas all other restaurants that had established seating areas on the sidewalks elsewhere in downtown were not required to pay for the use of the sidewalk.~~

Staff studied the methodology used by other US cities, including Seattle, WA and Corvallis, OR for establishing a defensible procedure for calculating an appropriate license rate that is fair and reasonable to business owners and that reasonably compensates the City for the use by private individuals of its property. As discussed at the March 18th Council meeting, Staff recommends that a single aggregated rate will be applied City-wide rather than establishing separate fees for different areas of the City. ~~Staff created a matrix to analyze the property values of the parcels historically associated with applications for sidewalk cafes and sidewalk vending carts (see attached). Twelve such parcels were identified, including Heritage Square. Preliminary analysis suggests that the lease rate for use of a City sidewalk would be about \$15 per sq. ft.; i.e., \$1,800 annually for a 120 sq. ft. sidewalk café operating area. This is derived by taking the average full cash value established by the Coconino County Assessor's Office for the 12 properties in the downtown and Southside areas, and dividing this value by the area of the parcel. The resultant average land value (\$60 per sq. ft.) may then be multiplied by the operating area in sq. ft. and a rate of return value of 25% (i.e. 0.25 over 4 years). Similarly, the cost to the proprietor of a vending cart based on a maximum operating area of 24 sq. ft. would be \$360 per year. Note that if the rate of return was calculated over a longer period of time, the annual lease rate would be lower. For example, if the rate of return was calculated over 6 years at 16.67%, then the lease rate for a 120 sq. ft. sidewalk café would be \$1,195.—~~

Consistent with Council's direction, staff has developed three options for determining a license rate for the use of public sidewalks by proprietors of sidewalk cafes and sidewalk vending carts. Each of these options are included in Exhibit A to Resolution 2014-10 - refer to Page 5 - and are copied here for the Council's convenience, as well as the corrected version of paragraph 1 of this Section:

#### B. APPLICATION FEE AND LICENSE RATE

1. Each application for a sidewalk café, sidewalk vending cart, or other permitted encroachment shall be accompanied by an application fee. Application fees are established

by the City's Management Services Director. The application fee is nonrefundable and additional to the license rate payable for the use of public right-of-way. The annual total cost for the use of public right-of-way for sidewalk cafes and sidewalk vending carts shall be collected prior to issuance of the permit, regardless of the amount of time used, or other permitted encroachment, and shall be determined as set forth in sub-paragraph 2. below.

**2. OPTION A:** [This is staff's recommended and preferred option. It assumes a uniform per square foot cost for the construction and maintenance of sidewalks with curb and gutter (the value was derived from recent construction projects in Southside and Sunnyside) as the basis for determining the license rate, seasonally adjusted for a 9-month season.] The annual total cost (ATC) shall be based on a per square foot (SF) calculation of the permit operating area. The ATC is calculated by determining the total cost for construction and maintenance of sidewalks, which is approximately \$5.00 per square foot (i.e. the license rate (LR)). The license rate may then be multiplied by nine (9) to create an annual cost which reflects an anticipated 9 months of potential use, and then is adjusted for an 8-year rate of return ((RR) i.e. 12.5% of value). See calculation below:

$$\begin{aligned} &\text{Area of Encroachment (SF)} \times \text{LR} \times \text{SA} \times \text{RR} = \text{Annual Total Cost} \\ &120 \times \$5.00 \times 9 \times 0.125 = \$675 \text{ Annual Total Cost or } \$56.25 \text{ per month} \end{aligned}$$

**2. OPTION B:** [This option is similar to that originally proposed by staff in that an analysis of the full cash value of properties associated with sidewalk cafes and vending carts will form the basis for the calculation of the license rate. However, rather than locking into 12 properties which may be problematic in the long term, staff suggests that for each pending year for which a license rate needs to be determined, the current year's properties would be used as the basis for the license rate calculation, seasonally adjusted for a 9-month season.] The Annual Total Cost (ATC) shall be based on a per square foot (SF) calculation of the permit operating area. The license rate (LR) value per square foot (SF) shall be calculated annually by the Assistant to the City Manager for Real Estate by no later than September 1st of each year. The license rate, which shall be applied to permit operating areas throughout the City of Flagstaff where sidewalk cafes and sidewalk vending carts are permitted, shall be derived by taking the average full cash value as established by the Coconino County Assessor's Office for the properties with permitted sidewalk café and sidewalk vending cart encroachments in the preceding year (including, if applicable, Heritage Square), and dividing this value by the area of the parcel. The resultant average land value shall then be multiplied by the permit operating area in square feet (SF) and a rate of return (RR) multiplier of 12.5% applied (i.e. an 8-year rate of return). This will then be modified to reflect anticipated seasonal use by adjusting the cost down by 25%, a seasonal adjustment (SA). See calculation below:

$$\begin{aligned} &\text{Area of encroachment (SF)} \times \text{LR} \times \text{RR} \times \text{SA} = \text{Annual Total Cost} \\ &120 \times \$60.00 \times 0.125 \times 0.75 = \$675 \text{ Annual Total Cost or } \$56.25 \text{ per month} \end{aligned}$$

**2. OPTION C:** [This option assumes that the license rate would be based on a locally accepted value of \$1.00 per square foot of sidewalk space seasonally adjusted for a 9-month season.] The Annual Total Cost (ATC) shall be based on a per square foot (SF) calculation of the permit operating area. A local industry standard value of approximately \$1.00 per SF (the license rate (LR)) may be applied to the permit operating area and adjusted to reflect anticipated seasonal use by multiplying the rate by nine (9) months instead of 12 (SA). See calculation below:

$$\begin{aligned} &\text{Area of Encroachment (SF)} \times \$1.00 \text{ (LR)} \times \text{SA} = \text{Annual Total Cost} \\ &120 \times \$1.00 \times 9 = \$1,080 \text{ Annual Total Cost or } \$90.00 \text{ per month} \end{aligned}$$

The license rate proposed above, or as ultimately adopted by the Council, will be applied to business owners who rent sidewalk space for outdoor cafes or vending carts, and will also be

applied to business owners who rent portions of Heritage Square for outdoor dining areas. This license rate will not apply in addition to any current lease amounts (e.g., for Cuvee 928 or Monsoon's), and it would only apply once any current lease agreements terminate.

7. Permitting requirements and conditions of permits. The ordinance establishes the need for a permit for use of public sidewalks for sidewalk cafes and sidewalk vending carts, as well as other permitted encroachments consistent with existing City Code requirements. It also establishes minimum submittal requirements, including proof of liability and insurance, as well as procedures for review. A new provision has also been added to Section 8-03-002-0003.A (Permit Application) to require written authorization from property and business owners adjoining a sidewalk café only if the area of operation is located in front of their businesses.
8. Denial, revocation or suspension of permits, and permit renewal. This section provides a procedure and standards for the denial, revocation or suspension of permits for sidewalk cafes and sidewalk vending carts. Note that the time frame for the renewal of a sidewalk café or vending cart permit has been changed. As the permit fee is for an annual permit, staff realized that applications for renewals of existing permits should be received from September 1st through December 31st. All applications received after December 31st will be processed as a new application. Consistent with the existing ordinance, an appeal process to the City Manager is established.
9. Location rules. Sidewalk cafes permitted under the current Division have been successful over the past years that staff has administered sidewalk café encroachment permits. Not only do the sidewalk cafés add to the ambiance and character of downtown Flagstaff, the standards in place have ensured that the encroachments do not constrict the sidewalk such that it is difficult for pedestrians to use them, especially those individuals who are mobility impaired. The proposed amendments to this Division are based on lessons learned through the application of the current standards, as well as best practices from other American cities that also permit sidewalk cafes and sidewalk vending carts. The new Division therefore, more clearly prescribes standards for minimum sidewalk width and a clear pedestrian zone relative to a defined area of operation for a sidewalk café. Allowances are also provided for pinch points around elements such as poles or posts supporting signs.
10. Standards for barriers defining sidewalk cafes. Arizona liquor laws require that barriers are installed to define an area in which alcohol is served, and federal Americans with Disabilities Act (ADA) standards require that barriers in public places meet certain standards so that, for example, a blind person with a cane can reasonably locate and move around the barrier. There are no minimum standards in the current code regarding the design and placement of barriers. The amendments, therefore, include a provision that requires barriers to harmonize with adjacent building's design, be moveable and not permanently attached to the sidewalk, and be constructed of high-quality durable materials. Appropriate standards to ensure compliance with ADA regulations are also included.
11. Sidewalk vending carts. The location and permitting regulations for sidewalk vending carts remain essentially unchanged from the existing regulations consistent with the Council's direction provided at the October 8, 2013 work session. The operating area for a sidewalk vending cart has been increased to 32 sq. ft. as staff realized that the area of 24 sq. ft. proposed in the October 8th draft was too small for a vending cart, operator, and trash receptacle. Compliance with minimum ADA standards to ensure safe passage for pedestrian accessibility has also been included.
12. Other Permitted Encroachments. This section remains essentially unchanged from the current regulations in Division 8-03-002, except that it has been updated and text has been clarified. Encroachments by such elements as bicycle racks, newspaper vending machines, potted plants, and mail boxes continue to be permitted, as do overhead encroachments, columns, and basement access. Similarly, permits will continue to be issued by the Engineering Section to allow construction activities in public rights-of-way, and to allow for the placement of waste containers in the right-of-way where there is no other location on-site for them to be placed.

13. Penalty for Violation and Abatement. Consistent with all City Code provisions, penalties are established for violations of Division 8-03-002, and authority is granted to the City to pursue summary abatement of a condition that creates “a risk of serious injury to persons or property” on a sidewalk and within a public way.

#### **Expanded Financial Considerations:**

As explained above, a key decision point for the Council will be the establishment of a defensible procedure for calculating an appropriate license rate that is fair and reasonable to business owners and that also reasonably compensates the City for the use by private individuals of its property; i.e., sidewalks.

#### **Community Benefits and Considerations:**

The current standards in Division 8-03-002, North Downtown Business District Encroachment Policy, have allowed for the establishment of sidewalk cafes and sidewalk vending carts in the downtown area. Bars and restaurants who have taken advantage of these regulations to establish seating areas on the public sidewalk have reported that their sales have increased making their businesses more profitable. Owners of sidewalk vending carts have also reported similar results. While increased business activity is beneficial to individual business owners, it also results in increased sales tax revenues to the City. Perhaps more importantly, the character and ambience of downtown is significantly enhanced by sidewalk cafes and sidewalk vending carts, a fact that has been noted by many downtown businesses and the Downtown Business Association. The proposed amendments to Division 8-03-002 are intended to continue to allow sidewalk cafes and sidewalk vending carts, so that the advantages described above may continue to be realized. However, other benefits result from these amendments, including the ability of business outside of the downtown area to also establish sidewalk cafes and sidewalk vending carts; the regulations have been clarified to eliminate confusing or contradictory regulations; enhanced protections for pedestrian use of sidewalks have been included; requirements for barriers around sidewalk cafes have been improved to assure architectural compatibility with buildings and to comply with ADA regulations; and, a mechanism to ensure the City is fairly compensated for private use of public rights-of-way is established. Furthermore, the existing regulations for other permitted encroachments that allow, for example, for the placement of a dumpster in public right-of-way when there is no space for it on a construction site, have been clarified.

#### **Community Involvement:**

**INFORM, CONSULT, & INVOLVE** - Prior to the October 8, 2013 Council work session, staff provided a letter to business owners in the downtown and Southside who have utilized a sidewalk café and vending cart, or who have expressed interest in applying for a permit for one. This letter was also provided to the Downtown Business Association (DBA) and the Flagstaff Chamber of Commerce. On February 18, 2014 an updated letter was hand delivered to 16 business owners in the downtown and Southside neighborhood, as well as to the DBA and Chamber of Commerce so that they would be informed of the proposed amendments and upcoming hearings/meetings with the Council.

City staff attended the DBA's weekly meeting on February 24, 2014 to discuss the proposed amendments to Division 8-03-002. While the concept of permitting sidewalk cafes and sidewalk vending carts is supported by the DBA because, for example, they add to the ambience and character of the downtown area, many members were concerned that the cost of the application fee and the permit fee was too high and that this would discourage businesses from applying for the permit. Staff explained why it was important and necessary to have a uniform fee for the use of public right-of-way by private businesses, and that ultimately the Council would decide on the amount of the fee (note the permit fee for a sidewalk café would apply to both Heritage Square and public sidewalks; however, no vending carts are permitted in Heritage Square).



City staff also presented the proposed amendments to a number of City Commissions and Committees, as summarized below:

**Pedestrian Advisory Committee** – December 12, 2013 and January 9, 2014. The Committee reviewed the proposed amendments to Division 8-03-002 and after some questions to staff and discussion the requirements for barriers around sidewalk cafes were supported, including the need for them to meet ADA standards. Further questions on potential obstructions, permitting requirements, and noise issues were answered by staff.

**Transportation Commission** – February 5, 2014. The Transportation Commission listened to staff's presentation on the sidewalk encroachment amendments, and moved to support the ordinance and recommended approval to the Council. The Commission reviewed the minutes of the Pedestrian Advisory Committee's last meeting, and they concurred with each of their points. The Commission also discussed the requirements for vending carts and were concerned that they were onerous, specifically the 100% approval requirement. Staff mentioned that a similar discussion had already taken place with the Council last year, and that the Council had directed staff not to change the requirements and standards for vending carts.

**Disability Awareness Commission** – February 25, 2014. After some discussion, during which staff answered questions, the Commission unanimously moved to support the proposed amendments to Division 8-03-002, and recommended their adoption by Council.

The public hearing/first reading of the ordinance to adopt the proposed amendments to Division 8-03-002 has been scheduled for March 18, 2014 with the ordinance's second reading and possible adoption now scheduled for April 1, 2014. The effective date will, therefore, be May 1, 2014. Owners of interested bars, restaurants, and sidewalk vending carts may apply for a Sidewalk Café and Sidewalk Vending Cart Permit on April 2nd, assuming Council adoption of the ordinance. However, permits will only be issued on April 30th in advance of the May 1st effective date.

#### **Expanded Options and Alternatives:**

1. Adopt Resolution No. 2014-10 declaring that the document entitled "Division 8-03-002, Sidewalk Cafes, Sidewalk Vending Carts and Other Permitted Encroachments" to be a public record
2. Do not adopt Resolution No. 2014-10 and, therefore, do not declare the proposed amendments to be a public record
3. Adopt Ordinance No. 2014-07 adopting amendments to that certain document entitled "Division 8-03-002, Sidewalk Cafes, Sidewalk Vending Carts and Other Permitted Encroachments"
4. Modify and adopt Ordinance No. 2014-07 adopting amendments to that certain document entitled "Division 8-03-002, Sidewalk Cafes, Sidewalk Vending Carts and Other Permitted Encroachments"
5. Do not adopt Ordinance No. 2014-07 and, therefore, make no changes to the existing text in Division 8-03-002.

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**Attachments:**     Ord. 2014-07  
                             Res. 2014-10.Amended

## **ORDINANCE NO. 2014-07**

**AN ORDINANCE OF THE CITY COUNCIL OF FLAGSTAFF, ARIZONA, AMENDING TITLE 8 OF THE FLAGSTAFF MUNICIPAL CODE BY DELETING IN ITS ENTIRETY DIVISION 8-03-002, *NORTH DOWNTOWN BUSINESS DISTRICT ENCROACHMENT POLICY*; AND ADOPTING THAT CERTAIN DOCUMENT ENTITLED “*DIVISION 8-03-002, SIDEWALK CAFES, SIDEWALK VENDING CARTS AND OTHER PERMITTED ENCROACHMENTS*”**

### **RECITALS:**

WHEREAS, Division 8-03-002, North Downtown Business District Encroachment Policy, of the Flagstaff City Code currently provides authority for City staff to issue permits allowing sidewalk cafes, sidewalk vending carts and other permitted encroachments within the right-of-way in the City's North Downtown Business District; and

WHEREAS, the City Council desires to amend Division 8-03-002 in order to open the benefits of this Division to businesses located outside the Downtown area, clarify existing regulations related to sidewalk encroachments, further encourage sidewalk cafes by eliminating confusing or unnecessary regulations, adequately protect pedestrian access to the public sidewalk, impose conditions that ensure the City is fairly compensated for private use of public rights-of-way, and otherwise improve the City's existing laws in this regard;

### **ENACTMENTS:**

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. Division 8-03-002, North Downtown Business District Encroachment Policy, is hereby deleted in its entirety.

SECTION 2. “*Division 8-03-002, Sidewalk Cafes, Sidewalk Vending Carts and Other Permitted Encroachments,*” which document was made a public record through previous Resolution No. 2014-10 of the City Council, is hereby adopted.

SECTION 3. That the City Clerk be authorized to correct typographical and grammatical errors, as well as errors of wording, spelling, and punctuation, as necessary; and that the City Clerk be authorized to make formatting changes needed for purposes of clarity and form, if required, to be consistent with Flagstaff City Code.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this 1st day of April, 2014.

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MAYOR

ATTEST:

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CITY CLERK

APPROVED AS TO FORM:

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CITY ATTORNEY

**RESOLUTION NO. 2014-10**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF FLAGSTAFF, ARIZONA, DECLARING AS A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND ENTITLED *"DIVISION 8-03-002, SIDEWALK CAFES, SIDEWALK VENDING CARTS AND OTHER PERMITTED ENCROACHMENTS"***

**RECITALS:**

WHEREAS, the City Council wishes to incorporate by reference amendments to Chapter 8-03, Streets and Public Ways, of the Flagstaff City Code, by first declaring said amendments to be a public record; and

WHEREAS, three copies of *"Division 8-03-002, Sidewalk Cafes, Sidewalk Vending Carts and Other Permitted Encroachments"* (Exhibit A attached hereto and made a part hereof) have been deposited in the office of the City Clerk and are available for public use and inspection.

**ENACTMENTS:**

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:**

*"Division 8-03-002, Sidewalk Cafes, Sidewalk Vending Carts and Other Permitted Encroachments,"* (Exhibit A attached hereto and made a part hereof) three complete copies of which are on file in the office of the City Clerk, is hereby declared to be a public record.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this 1st day of April, 2014.

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MAYOR

ATTEST:

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CITY CLERK

APPROVED AS TO FORM:

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CITY ATTORNEY

**EXHIBIT A****DIVISION 8-03-002: SIDEWALK CAFES, SIDEWALK VENDING CARTS AND OTHER PERMITTED ENCROACHMENTS****SECTION 8-03-002-0001 DEFINITIONS**

- A. Area of Operation means the area of the sidewalk established by the Director within which a business is allowed to operate a sidewalk café.
- B. City Engineer means the City of Flagstaff City Engineer or his or her designee.
- C. Clear Pedestrian Zone is the area reserved for travel. No sidewalk café operations are allowed in this area and the area must meet Federal, State and local accessibility standards and be free of hazards.
- D. Commercial Zone means abutting property which is zoned Central Business (CB), Highway Commercial (HC), Commercial Service (CS), and Community Commercial (CC) of the City of Flagstaff Zoning Code, or any other zone which may be created as a successor zone to such existing commercial zones.
- E. Community Event means an event specifically approved by an individual permit granting use of a street within a specifically defined area for a period of time.
- F. Conduct Business means the act of selling or attempting to sell services, or edible or non-edible items for immediate delivery from a sidewalk vending cart.
- G. Director means the City of Flagstaff Planning Director or his or her designee.
- G-H. [License Rate means the price per square foot for the use of public right-of-way for sidewalk cafes and sidewalk vending carts.](#)
- H-I. Operate a Sidewalk Café means serving food or beverages from an adjacent café or restaurant to patrons seated at tables located within the sidewalk area adjacent to the café or restaurant.
- I-J. Permit Operating Area means the sidewalk from the midpoint of one block face to the midpoint of an adjacent block face.
- K. Permittee means the individual who applied for the sidewalk café or sidewalk vending permit and to whom the permit is issued. The permittee bears the ultimate responsibility for the operation of the sidewalk café or, for sidewalk vending carts, the Permit Operating Area.
- J-L. [Public Way or Public Right-of-Way means public land that has been set aside for the purpose of vehicular and/or pedestrian travel by the public, or other public use, such as utilities, including subsurface, surface, and air rights.](#)
- K-M. Sidewalk means that portion of the [public way](#)~~street~~ between the curb lines of the roadway and the adjacent property lines intended for use by pedestrians. For purposes of permitting sidewalk cafes, the term "sidewalk" includes Heritage Square, as depicted in the "Declaration of Public Plaza Easement by and between the City of Flagstaff and Flagstaff Heritage Land, LLC" recorded June 5, 1997 in the Official Records of Coconino County as Instrument Number 97-15313. Sidewalk vending carts, as defined herein, are prohibited in Heritage Square.

**SECTION 8-03-002-0002 COMMON PERMITTING AND REVIEW PROCEDURES FOR SIDEWALK CAFES, SIDEWALK VENDING CARTS AND OTHER PERMITTED ENCROACHMENTS.**

A. PERMIT REQUIRED FOR SIDEWALK CAFÉ, SIDEWALK VENDING CARTS AND OTHER PERMITTED ENCROACHMENTS

No person shall conduct a business, as herein defined, on City sidewalks, or otherwise encroach upon a City sidewalk, without first obtaining a permit from the City's Community Development Division and paying the appropriate fee(s) to the City of Flagstaff. It shall be unlawful for any person to operate a sidewalk café or sidewalk vending cart on any City sidewalk within the City of Flagstaff, or otherwise encroach upon a City sidewalk, except as provided by this Division.

B. APPLICATION FEE AND LICENSELEASE RATE

1. Each application for a sidewalk café, sidewalk vending cart, or other permitted encroachment shall be accompanied by an application fee. Application fees are established by the City's Management Services Director. The application fee is nonrefundable and additional to the license lease-rate payable for the use of public right-of-way amount. The annual total cost for the use of public right-of-way for sidewalk cafes and sidewalk vending carts amount of the lease rate shall be collected prior to issuance of the permit. ~~The annual lease rate for a sidewalk café and a sidewalk vending cart~~ regardless of the amount of time used, or other permitted encroachment, and shall be determined as set forth in sub-paragraph 2. below.

~~2. The annual lease rate shall be based on a per square foot calculation of permitted sidewalk areas. The lease rate shall be calculated annually by the Assistant to the City Manager for Real Estate by no later than September 1st of each year. The lease rate, which shall be applied throughout the City of Flagstaff where sidewalk cafes and sidewalk vending carts are permitted, shall be derived by taking the average full cash value as established by the Coconino County Assessor's Office for the 12 properties in the downtown and Southside areas that have historically applied for and operated sidewalk cafes (including Heritage Square), and dividing this value by the area of the parcel. The resultant average land value shall then multiplied by the operating area in sq. ft. and a rate of return value of 25% applied.~~

2. **OPTION A:** The annual total cost (ATC) shall be based on a per square foot (SF) calculation of the permit operating area. The ATC is calculated by determining the total cost for construction and maintenance of sidewalks, which is approximately \$5.00 per square foot (i.e. the license rate (LR)). The license rate may then be multiplied by nine (9) to create an annual cost which reflects an anticipated nine (9) months of potential use, and then adjusted for an 8-year rate of return ((RR) i.e. 12.5% of value). See calculation below:

Area of Encroachment (SF) X LR X SA X RR = Annual Total Cost  
120 X \$5.00 X 9 X 0.125 = \$675 Annual Total Cost

**OPTION B:** The Annual Total Cost (ATC) shall be based on a per square foot (SF) calculation of the permit operating area. The license rate (LR) value per square foot (SF) shall be calculated annually by the Assistant to the City Manager for Real Estate by no later than September 1st of each year. The license rate, which shall be applied to permit operating areas throughout the City of Flagstaff where sidewalk cafes and sidewalk vending carts are permitted, shall

be derived by taking the average full cash value as established by the Coconino County Assessor's Office for the properties with permitted sidewalk café and sidewalk vending cart encroachments in the preceding year (including, if applicable, Heritage Square), and dividing this value by the area of the parcel. The resultant average land value shall then be multiplied by the permit operating area in square feet (SF) and a rate of return (RR) multiplier of 12.5% applied (i.e. an 8-year rate of return). This will then be modified to reflect anticipated seasonal use by adjusting the cost down by 25%, a seasonal adjustment (SA). See calculation below:

Area of encroachment (SF) X LR X RR X SA = Annual Total Cost  
120 X \$60.00 X 0.125 X 0.75 = \$675 Annual Total Cost

**OPTION C:** The Annual Total Cost (ATC) shall be based on a per square foot (SF) calculation of the permit operating area. A local industry standard value of approximately \$1.00 per SF (the license rate (LR)) may be applied to the permit operating area and adjusted to reflect anticipated seasonal use by multiplying the rate by nine (9) months instead of 12 (SA). See calculation below:

Area of Encroachment (SF) X LR X SA = Annual Total Cost  
120 X \$1.00 X 9 = \$1,080 Annual Total Cost

#### C. LIABILITY AND INSURANCE

All permit applications shall be accompanied by a signed statement that the permittee shall hold harmless the City of Flagstaff, its officers and employees, and shall indemnify the City of Flagstaff, its officers and employees for any claims for damages to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit. Permittee shall furnish and maintain such public liability and property damages insurance as will protect permittee and City of Flagstaff from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than \$1,000,000 (one million dollars). Such insurance shall be without prejudice to coverage otherwise existing therein, and shall name as additional insured the City of Flagstaff, its officers and employees, the property owner, and shall further provide that the policy shall not terminate or be canceled prior to the completion of the contract without 30 days written notice to the City of Flagstaff.

#### D. DENIAL, REVOCATION OR SUSPENSION OF PERMIT

1. The Director may deny, revoke, or suspend the permit for any sidewalk café, sidewalk vending cart, or other permitted encroachment if it is found:
  - a. That the applicable provisions of this Division have been violated.
  - b. The permittee does not have insurance which is correct and effective in the minimum amount prescribed in Subsection C, above.

2. Upon denial or revocation, the Director shall give notice of such action to the responsible party and permittee in writing stating the action which has been taken and the reason therefor. The action shall be effective upon giving such notice to the permittee. Any denial or revocation may be appealed to the Director by filing within 10 days.
3. Upon approximately forty-eight hours advance notice, the Director may temporarily suspend the permit in the event of an emergency or if the public interest requires use of the sidewalk permit area for a community event, construction, repair, or any other public purpose. The City will attempt to provide notice of said suspension as soon as practical. The City shall not be responsible for any loss or damage claimed by the permittee for such closure, except that permittee shall be entitled to a refund of a prorated portion of the annual total cost the lease rate amount based on by using a pro-rated calculation of the license rates based on the days of closure.

#### E. RENEWAL OF PERMITS

Application for renewal of permits shall be received from September 1st through December 31st. Application shall be on a form deemed suitable to the Director, accompanied by the application fee and the annual total cost for the use of public right-of-way lease rate amount. Applications received after December 31st shall be processed as new applications. The Director shall review each application to determine that:

1. Any required consent has not been withdrawn.
2. The application has a currently effective insurance policy in the amount provided in Section 8-03-002-0002(C).
3. All required permits are current.
4. All applicable standards have been met. If the Director finds that the application meets all the above requirements, a new permit shall be issued.

#### F. APPEAL

Any permittee aggrieved by a determination of the Director may appeal that determination to the City Manager. Notwithstanding any other provisions of this Code, there shall be a non-refundable fee of \$250 for any appeal pursuant to this subsection. Such fee must accompany any such appeal and no such appeal shall be considered filed or received until such fee is paid in full.

### SECTION 8-03-002-0003 SIDEWALK CAFES

#### A. PERMIT APPLICATION

Application for a permit to operate a sidewalk café shall be made to the Director at the City of Flagstaff Community Development Division counter, in a form approved by the Director. In addition to those requirements set forth in Section 8-03-002-0002, above, such application shall include, but not be limited to, the following information:

1. Name and address of the applicant.



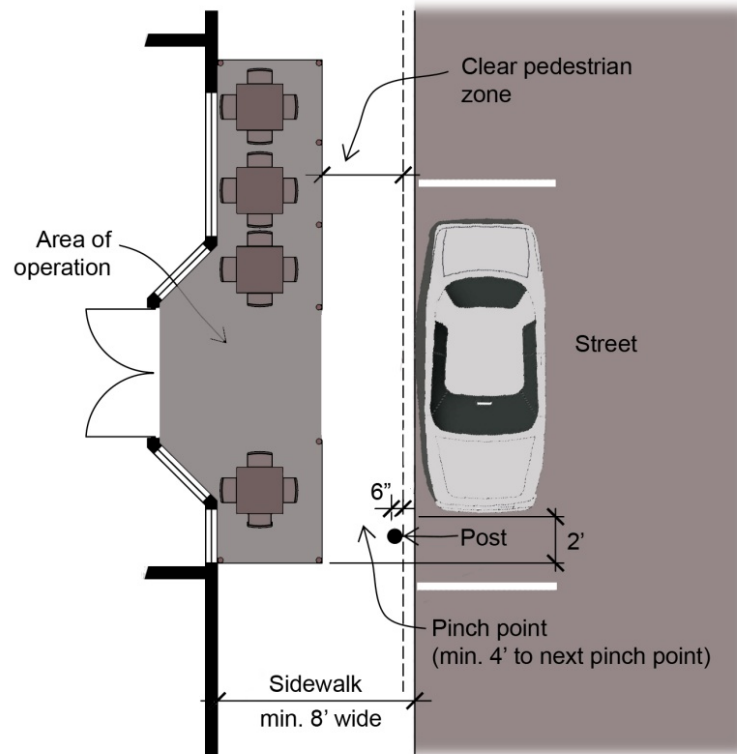
2. A drawing showing the width of the applicant's café or restaurant facing the sidewalk indicating the area of operation requested to be used, location of doorways; the width of the sidewalk (distance from curb back to building face); locations of tree wells, bus shelters, sidewalk benches, signs, trash receptacles, driveways or curb cuts, or any other semi-permanent or permanent sidewalk obstructions.
- ~~2.3.~~ If a permit operating area will be located in front of a business other than that owned or operated by the applicant, written authorization from the property owner and business owner shall be submitted confirming their approval.

## B. LOCATION RULES AND REVIEW

1. A sidewalk café shall only be allowed where the sidewalk is at least 8 feet wide and where compliance with the Americans with Disabilities Act can be ensured. Café operations will be allowed only within the area of operation, which shall be established by the Director.
- ~~1.~~
2. The following table shows the minimum width of the clear pedestrian zone for a given sidewalk width. The width of the clear pedestrian zone shall be measured from the back of the curb to the outer edge of the barrier delimiting the boundary of the sidewalk café.

Sidewalk Width	Clear Pedestrian Zone Minimum Width
Greater than or equal to 8' 0" and less than or equal to 10' 0"	5' 6"
Greater than 10' 0" and less than 15' 0"	6' 0"
Greater than or equal to 15' 0"	8' 0"

3. Sidewalk width is determined by the Director's field measurements
4. As a tool to allow compliance in areas with space conflicts a sidewalk café may be allowed pinch points that are less than the required clear pedestrian zone minimum width. At a pinch point, the clear pedestrian zone minimum width may be reduced by 6 inches for a length of no more than 2 feet. Pinch points must be at least 4 feet from adjacent pinch points. Pinch points may be used at the discretion of the Director.
5. Except as allowed in Subsection 4, above, the clear pedestrian zone shall be free of all obstructions, permanent and temporary. This includes objects such as posts, signs, street lights, fire hydrants, bicycle racks, bicycles utilizing bicycle racks, vegetation, trees, tree-wells, planters, literature and news racks, parking meters, bus shelters, benches, tables, chairs, umbrellas, heaters, and waste receptacles.



Location Restrictions for Sidewalk Cafes

6. Obstructions controlled by the café or property owner that extend into/over the clear pedestrian zone shall be at least 8 feet above the sidewalk surface within the clear pedestrian zone.
7. The approved area of operation shall be established by the Director. At all times during the hours of operation of the sidewalk café a barrier or physical separator that can easily be lifted and moved immediately without the assistance of tools shall surround the area of operation. All barriers shall harmonize with the adjacent building's design and be professionally constructed using high-quality durable materials.
8. Barriers must be detectable by cane to warn visually impaired persons of potential hazards in the path of travel. Barriers must include one or more of the following detectable elements:
  - a. A toe rail with its top edge at 6 inches minimum in height and its bottom edge no higher than 1-1/2 inches above the adjacent surface;
  - b. Fencing, landscaping, or other elements detectable by cane spaced no more than 27 inches vertically and no more than 24 inches horizontally; or
  - c. Elements sufficiently detectable by cane to warn visually impaired persons of potential hazards in the path of travel.

**C. FORM AND CONDITIONS OF PERMITS**

The permit issued shall be in a form deemed suitable by the Director. In addition to naming the name of the business and other information deemed appropriate by the Director, the permit shall contain the following conditions:

1. Each permit issued shall terminate December 31st of the year in which issued.
2. The permit issued shall be personal to the permittee only and is not transferable in any manner.
3. An indemnity provision indemnifying and releasing the City of Flagstaff, its agents, employees and elected officials from any and all liability against any and all claims, actions and suits of any type whatsoever.
4. The permit is specifically limited to the approved area of operation.
5. The permittee shall use positive action to assure that its use of the sidewalk in no way interferes with or embarrasses sidewalk users or limits their free and unobstructed passage.
6. The sidewalk and all things placed thereon shall at all times be maintained in a clean and attractive condition. Trash containers may be provided for use by the sidewalk café patrons.
7. The permit shall be posted in a conspicuous place near the main entrance visible from the sidewalk at all times.
8. All furniture and equipment used in the operation of a sidewalk café shall be removed from the right-of-way within a period of 10 days when not available for use by patrons. Removal of furniture and equipment may be required, on a case by case basis, outside of the business' hours of operation if determined necessary for safety or other reasons including, but not limited to, capital improvement projects, routine maintenance or emergency repairs, at the discretion of the City Engineer. The Flagstaff Police Department or other City departments may provide recommendations for the consideration by the Director.
9. Outdoor cooking shall be prohibited.
10. Smoking with in the confines of the permitted area of operation is prohibited.
11. The serving or consumption of alcohol is prohibited within the permitted area of operation between the hours of 2:00 a.m. and 10:00 a.m.
12. No additional advertising or signs of any sort shall be allowed in the permitted area of operation.

**SECTION 8-03-002-0004 SIDEWALK VENDING CARTS****A. PERMIT APPLICATION**

An application for a permit to conduct business in a vending cart on a sidewalk shall be made to the Director at the City of Flagstaff Community Development Division counter, in a form approved by the Director. In addition to those requirements set forth in Section 8-03-002-0002, such application shall include but not be limited to the following information:

1. Name and address of the applicant.
2. The expiration of applicant's City business license.

3. Type of items sold or services rendered. Individual applications shall be accepted for one type of product or service only.
4. A valid copy of all necessary permits required by State or local health officials.
5. Means to be used in conducting business including but not limited to a description of any vending cart, to be used for transport or to display approved items or sales.
6. The proposed location for conducting business and the written consent of all directly competing businesses within 145 feet of such proposed location, and 80% of all businesses and owners of real property within 145 feet of such proposed location, along with a signed statement that permittee shall hold harmless the adjacent property owner(s) for any claims for damage to property or injury to persons which may be occasioned by any activity carried on or under the permit. This consent and hold harmless statement must be submitted on a form deemed appropriate by the Director. No application shall apply to more than one location. No application will be accepted for a permit operating area within which a current permit has been issued or an application is pending.
7. No food vendor application will be accepted for a permit operating area where a restaurant, with direct access to the sidewalk, is adjacent or within 100 feet on the same block. Distance is measured from the property line of the restaurant to the nearest part of the permit operating area. Alleys and public ways are included in this measurement. This requirement may be waived if the application is submitted with the written consent of the proprietor of the restaurant. This consent must be submitted on a form deemed appropriate by the Director.

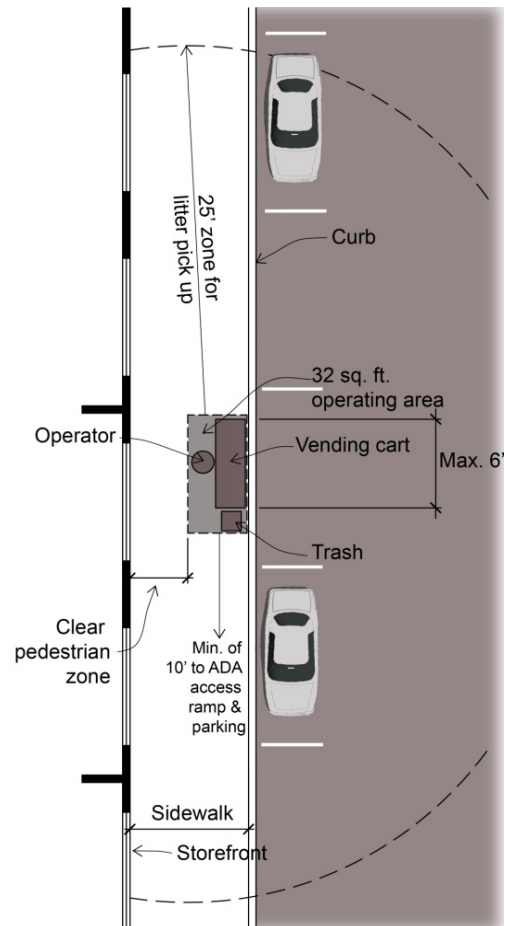
## B. LOCATION REVIEW AND RESTRICTIONS

1. Upon receipt of an application for a permit the Director shall review the proposed permit operating area to determine if the said area is suitable for sidewalk vending. In making this determination, the Director shall consider the following criteria:
  - a. The permit operating area shall be within a Commercial Zone.
  - ~~a.b.~~ A sidewalk vending cart shall only be allowed where the sidewalk is at least 8 feet wide and where compliance with the Americans with Disabilities Act can be ensured.
  - ~~b.c.~~ The use of the permit operating area for sidewalk vending must be compatible with the public interest in use of the sidewalk areas as public rights-of-way. In making such determination the Director shall consider the width of the sidewalk, the proximity and location of existing street furniture, including, but not limited to, signposts, lamp posts, parking meters, bus shelters, benches, phone booths, street trees and newsstands, as well as, the presence of bus stops, truck loading zones, taxi stands or hotel zones to determine whether the proposed use would result in pedestrian or street congestion.

The Director shall inform the applicant whether the proposed permit operating area is suitable or unsuitable. In the event the applicant is dissatisfied with the Director's decision regarding a certain application, he/she may appeal the decision pursuant to Section 8-03-002-0002(E).

2. Any person conducting business on the sidewalks of the City of Flagstaff with a valid permit issued under this Division may display/sell items or services upon any vending cart, under or subject to the following conditions:

- a. The operating area shall ~~be not exceed~~ 32 square feet of sidewalk which shall include the area of the vending cart, and, when externally located, the operator and trash receptacle.



Location Restrictions for Sidewalk Vending Carts

- b. The length of the vending cart shall not exceed 6 feet.
- c. The height of the vending cart, excluding canopies, umbrellas, or transparent enclosures, shall not exceed 5 feet.
3. No person may conduct business on a sidewalk in any of the following places:
- a. Within the curb return radius except that the Director may waive this restriction in writing for any location upon finding that construction of extra-width sidewalks makes such use consistent with the standards established in Section 8-03-002-0004(F);
- b. Within 10 feet of any disabled parking space, or access ramp.

4. The sidewalk and all things placed thereon shall at all times be maintained in a clean and attractive condition. All persons conducting business on a sidewalk must pick up any paper, cardboard, wood or plastic containers, wrappers or any litter in any form which is deposited by any person on the sidewalk or street within 25 feet of the place of conducting business. Each person conducting business on a public sidewalk under the provisions of this Division shall carry a suitable container for placement of such litter by customers or other persons.
5. All persons conducting business on a sidewalk shall obey any lawful order of a police officer to move to a different permitted location to avoid congestion or obstruction of the sidewalk, or remove his/her vending cart entirely from the sidewalk, if necessary to avoid such congestion or obstruction.
6. No person shall conduct business as defined herein at a location other than that designated on his/her permit.
7. No permittee shall make any loud or unreasonable noise of any kind by vocalization or otherwise for the purpose of advertising or attracting attention to his/her wares.
8. No permitted vending cart shall be left unattended on a sidewalk nor remain on the sidewalk between the hours of 2 a.m. and 6 a.m.
9. No permittee shall conduct business in violation of the provision of any permit providing for a community event.

#### C. ITEMS FOR SALE

The Director shall maintain a list of items and services which are either approved or prohibited for sale from sidewalk vending carts. Any item or service not on the list may be considered for approval based on the following criteria:

1. All items or services must:
  - a. Be vended from a regulation size vending cart, see Section 8-03-002-0004(L).
  - b. Not lead to or cause congestion or blocking of pedestrian traffic on the sidewalk;
  - c. Involve a short transaction period to complete the sale or render the service;
  - d. Not cause undue noise or offensive odors;
  - e. Be easily carried by pedestrians.

Requests to have an item or service considered for approval shall be submitted in writing to the Director who shall determine whether the item or service conforms to the above criteria. If the item or service conforms to the above criteria, it shall be listed as approved for sale by sidewalk vendors. The decision of the Director, if adverse to the party making the request, may be appealed pursuant to Section 8-03-002-0002(E).

#### D. FIRE MARSHALL INSPECTION

Prior to the issuance of any permit, the Fire Marshall shall inspect and approve any vending cart to assure the conformance of any heating or cooking apparatus with the provisions of the City of Flagstaff Fire Code.

**E. APPLICATION TIME LIMIT**

The applicant must complete all reviews, inspections and have presented all required documents to the Director within 60 days from date of location approval. Failure to meet this requirement shall result in cancellation of the application and forfeiture of the application fee. The Director may extend this time limit, upon written request and a finding of reasonable need.

**F. FORM AND CONDITIONS OF PERMITS**

The permit shall be issued in a form deemed suitable by the Director. In addition to naming the permittee and other information deemed appropriate by the Director, the permit shall contain, but not be limited to, the following conditions:

1. Each permit will expire at midnight, December 31st of the year issued.
2. The permit issued shall be personal to the permittee only and is not transferable in any manner.
3. The permit is valid only when used at the permit operating area designated on the permit. The permit operating area may be changed by submitting a new application and an additional application fee.
4. The permit is valid for one vending cart only.
5. The location within the permit operating area may be changed, either temporarily or permanently, by written notice of the Director.
6. The permittee shall use positive action to assure that its use of the sidewalk in no way interferes with or embarrasses sidewalk users or limits their free and unobstructed passage.
7. The permit is subject to further restrictions as set forth in this Division.

**SECTION 8-03-002-0005 OTHER PERMITTED ENCROACHMENTS****A. PERMITTED ENCROACHMENTS BY STRUCTURES.**

The City may issue permits for certain fixed continuing minor encroachments of public ways, or fixed encroachments indefinite as to time or duration, such as awnings, signs, balconies, bay windows, cornices, columns, pillars, shutters, roofs, show windows, ornamental projections, wires across streets, marquees, basement access or porticoes, upon the following conditions:

1. Overhead Encroachments. All awnings, signs, balconies, bay windows, cornices, shutters, roofs, show windows, ornamental projections, wires across streets, marquees, porticoes constructed or maintained over or across a right-of-way shall be securely and safely attached to and supported by the structure to which it is attached, and shall extend no closer than 2 feet to a vertical line drawn from the face of the curb. The lowest part of any awning or other such overhead encroachment shall be no closer than 8 feet from the sidewalk surface.

2. Excavations and Other Subsurface Encroachments. The City may issue permits for excavations and other subsurface encroachments subject to the need for installation and maintenance of utilities.
3. Columns and Basement Access. All columns, pillars, basement access or similar structures must, in addition to meeting all other requirements of this Ordinance, be reviewed and approved by the Heritage Preservation Commission.

**B. OTHER ENCROACHMENTS FOR THE PLACEMENT OF OBJECTS OR FOR CONSTRUCTION OR REPAIR.**

The City may issue permits for temporary encroachments of the public way in all zoning districts, when, in the City's sole discretion, such encroachment may enhance the ambience of the area or may be reasonably necessary in order to conduct exterior repairs to a building, including but not limited to the following:

1. Construction Encroaching into Public Ways. Temporary obstructions and encroachments on public ways in connection with the erection and repair of buildings and other structures may be permitted, provided that such obstructions or encroachment does not interfere unreasonably with the rights of adjacent property owners.
2. Bicycle Parking Racks. Bicycle parking racks shall be placed so the rack and the bicycles parked at the rack do not interfere with accessible paths of travel or accessible parking as required by the American with Disabilities Act of 1990, as amended. All racks must meet the requirements of Sections 10-50.80.050.B.2 and 10-50.80.050.D of the Flagstaff Zoning Code.
3. Potted Plants. All plants, trees, shrubs, and flowers shall be placed in containers that are aesthetically compatible with the downtown area. Said containers shall be constructed in such a manner that no soil, fertilizer or other deleterious material shall leak, leach or spill onto the public sidewalk. In the interest of pedestrian safety and to accommodate snow removal operations, potted plants shall be removed from the sidewalk area no later than October 31st and placed no earlier than May 1st of each year.
4. Newspaper Vending Machines. Notwithstanding anything to the contrary contained herein, an encroachment permit shall not be required for newspaper vending machines. Such vending machines shall nonetheless be placed in a manner to allow for the safe and unrestricted use of the sidewalk by the public and shall be placed a minimum of 2 feet from the face of curb. Any regulation or restriction on the placement of newspaper vending machines shall be location-specific and shall apply to all such machines equally.
5. Mailboxes. Notwithstanding anything to the contrary contained herein, an encroachment permit shall not be required for mail receptacles owned by the U.S. Postal Service.

**C. PERMIT APPLICATION**

Application for a permitted encroachment shall be made to the City Engineer at the City of Flagstaff Community Development Division counter, in a form approved by the City Engineer. In addition to those requirements set forth in Section 8-03-002-0002, such application shall include, but not be limited to, the following information:



1. Name and address of the applicant.
2. A drawing showing the width of the applicant's encroachment indicating the area requested to be used, location of doorways; the width of the sidewalk (distance from curb back to building face); locations of tree wells, bus shelters, sidewalk benches, signs, trash receptacles, driveways or curb cuts, or any other semi-permanent or permanent sidewalk obstructions.

#### **SECTION 8-03-002-0006 PENALTY FOR VIOLATION**

- A. Knowingly encroaching upon a City sidewalk without a permit shall be considered a misdemeanor offense, subject to the sanctions set forth in Chapter 1-04, General Penalties.
- B. The Director is authorized to issue a citation to any person violating the provisions of this Division. Issuance of a citation shall trigger revocation of the permit under Section 8-03-002-0002(D) and, in the event of conviction, no permit shall be issued to the same person, entity or address, for a period of at least two years.

#### **SECTION 8-03-002-0007 SUMMARY ABATEMENT**

If the condition of any sidewalk café, sidewalk vending cart, or other permitted encroachment located on a City sidewalk or within a public way is such that it creates a risk of serious injury to persons or property, the Director is authorized to pursue summary abatement of the condition and to charge against the permittee the full costs of such abatement.

**CITY OF FLAGSTAFF**  
**STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Sarah Darr, Housing Manager  
**Date:** 03/24/2014  
**Meeting Date:** 04/01/2014



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**TITLE:**

**Consideration and Approval of Lease of City-Owned Property:** Ground Lease Agreement for the Development of Affordable Housing: Providing site control of City owned land located at 300 South Verde for Habitat for Humanity of Northern Arizona to support construction of a home for inclusion in the Community Land Trust Program. ***(Permission for Habitat for Humanity of Northern Arizona to build a permanently affordable home on City land)***

**RECOMMENDED ACTION:**

Approve the Ground Lease Agreement with Habitat for Humanity of Northern Arizona for the construction of one single-family home to be sold to a qualified low-income household and included in the Community Land Trust Program.

**Policy Decision or Reason for Action:**

Providing site control of City-owned land for Habitat for Humanity of Northern Arizona (HFHNA) will provide an owner-occupied permanently affordable home for the community, support a non-profit's capacity, and increase the Community Land Trust Program (CLTP) inventory with limited City financial resources required.

Subsidiary Decisions Points:  
No subsidiary decision points.

**Financial Impact:**

The agreement allows a single family home to be constructed on City land. HFHNA will provide \$30/month to the City as a lease fee. After the home is sold, the cost will be assigned to the new owner. (An additional financial implication is the reduction in cost to the City required to maintain the current landscaping and for snow removal.)

**Connection to Council Goal:**

5. Retain, expand, and diversify economic base  
11. Effective governance

**Has There Been Previous Council Decision on This:**

While there has not been a previous Council decision on this specific property, in the fall of 2011 a very similar agreement was approved and executed for a near-by property. The home associated with the previous Ground Lease has been constructed and is occupied by a low-income household.

**Options and Alternatives:**

- A) Approve the ground lease agreement
- B) Approve the ground lease agreement with amendments
- C) Not approve the ground lease agreement and provide guidance regarding areas for renegotiation
- D) Not approve the agreement

**Background/History:**

Council provided direction to identify appropriate parcels that could be utilized to assist non-profit organizations in providing affordable owner occupied housing opportunities. HFHNA has worked with staff to explore the possibility of developing several remnant parcels over the past couple years; has requested site control and proceeded with design work. The proposed parcel is a remnant from the Butler widening project over fifteen years ago. In 1998, the Flagstaff Housing Authority built a duplex that serves as part of the Scattered Site Public Housing Program. Staff, together with HFHNA, has determined there is room for an additional unit on the same parcel. Private funds and Community Development Block Grant (previously awarded) will be used to build the home. The improvements will be sold to a qualified household and the land will stay in the CLTP.

**Key Considerations:**

The parcel is an infill parcel in a residential neighborhood with appropriate zoning. It will provide space for one single-family unit and has been through pre-application and Design Review as well. The parcel will be controlled by HFHNA through the construction process and then assigned to the qualified household who will purchase the improvements. The identified qualified household earns less than 60% of the Area Median Income (\$38,340 for a family of four in 2014), a difficult population to serve with other models. Control will be provided through the 99-year renewable ground lease which allows the City to require standards be met and that existing infrastructure be maintained where necessary. The parcel improvements, including the building, fencing and landscaping, will be maintained by the homeowner. Due to the unique nature of the partnership and the lack of alternative uses for the parcel, sole source procurement was determined to be acceptable.

One additional action to be performed administratively is the application for a Lot Combination through Coconino County. Restructuring the current parcel boundaries will provide two viable parcels divided by Butler Avenue. This addresses an issue created by the Butler realignment and corrects a non-viable remnant that exists today South of Butler Avenue.

**Expanded Financial Considerations:**

The agreement uses existing and appropriate City land to achieve a Council goal with limited City of Flagstaff financial contribution necessary. The ground lease will result in \$30/month lease fee provided to the City and control of the parcel by an outside entity will save City BBB resources currently used to maintain the landscaping and sidewalks.

**Community Benefits and Considerations:**

Permanent affordability provides the ongoing community benefit of affordable homeownership to a difficult-to-serve population through a unique melding of models. This agreement supports a non-profit partner, HFHNA, as they work to provide affordable housing and simultaneously increases the inventory of permanently affordable homes with limited cost to the City.

**Community Involvement:**

Consult - Permanent affordability and the CLTP have had significant public involvement and opportunities for public comment during the various stages of development. The Community Housing Policy Task Force identified the use of City-owned land as a potential strategy for assisting partner organizations in a mutually beneficial manner.

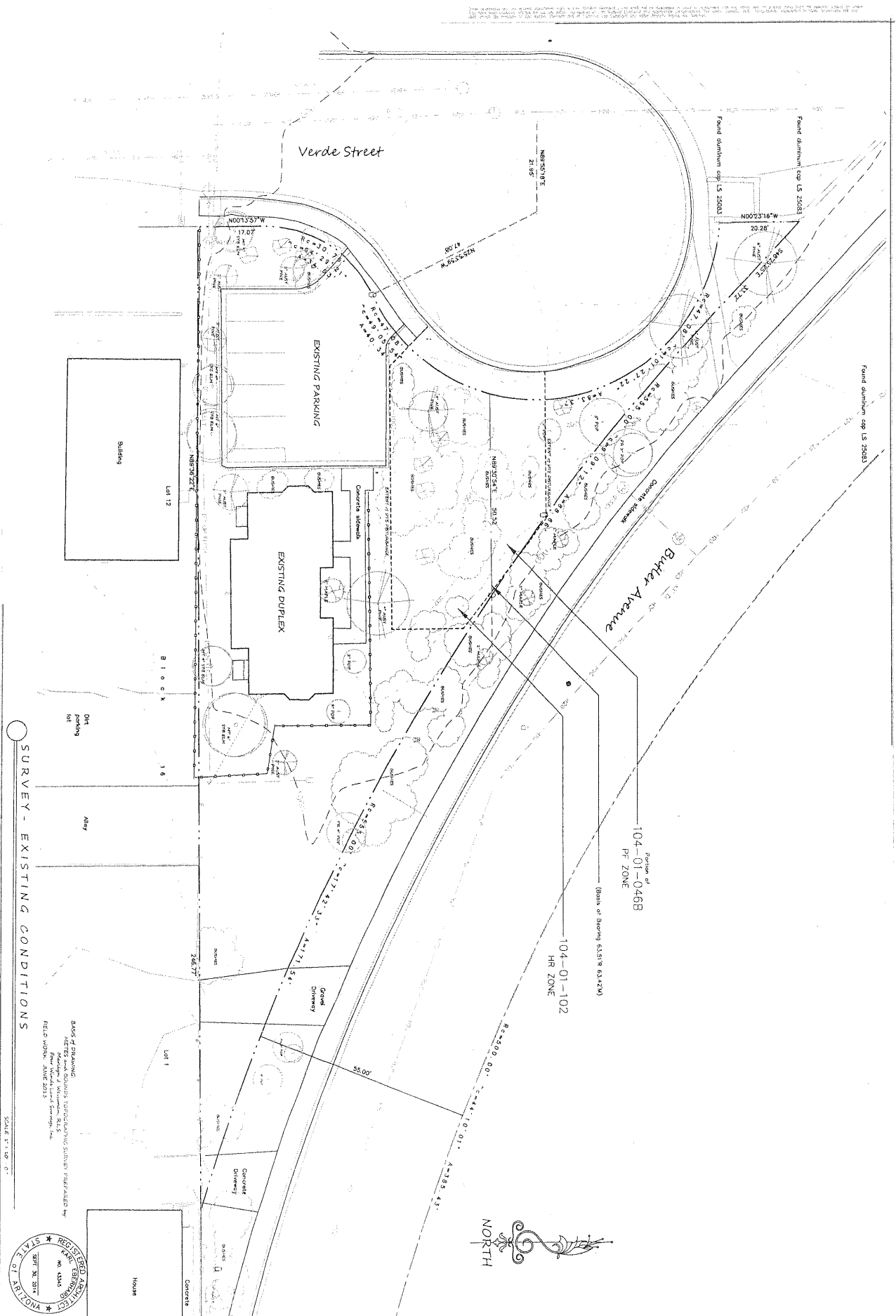
**Expanded Options and Alternatives:**

The recommended option is the product of discussion with the provider and their formal request for the land use. There are few, if any, alternative parcels that are viable for this building season.

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**Attachments:**     [Site Plan and Elevation](#)  
                              [Legal Description for Lease Parcel](#)  
                              [Exhibit to Legal Description](#)  
                              [IDS Approval Letter and Conditions](#)  
                              [Development Ground Lease](#)





SURVEY - EXISTING CONDITIONS

SCALE 1" = 10' 0"



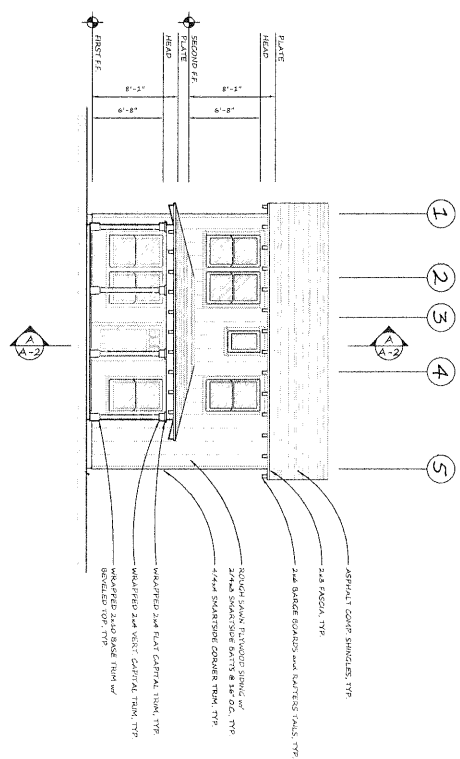
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SURVEY -  
EXISTING  
CONDITIONS  
NOV 2013

HABITAT 2013  
300 S. VERDE STREET  
FLAGSTAFF, AZ

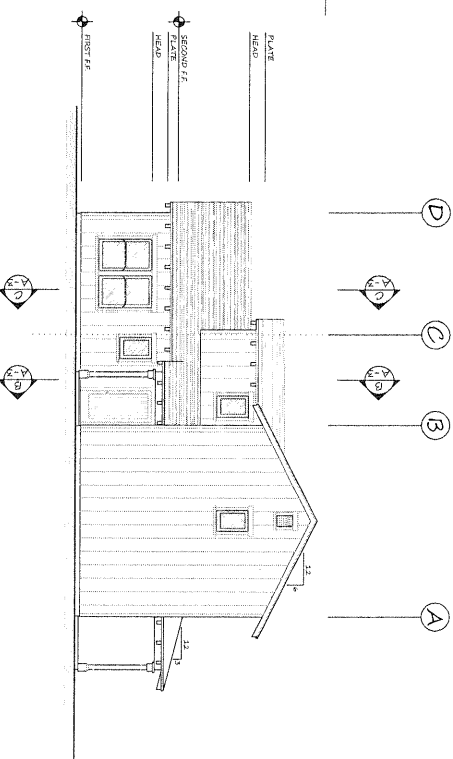
KARI CUNIFF  
Eberhard  
ARCHITECT

944-09-09 (504)  
944-09-09 (504)  
944-09-09 (504)

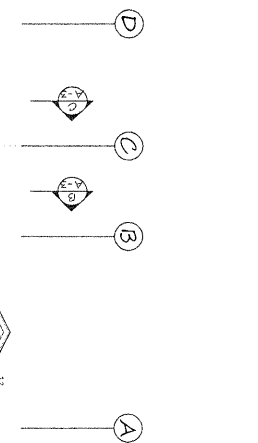


WEST ELEVATION

SCALE: 3/16" = 1' - 0"



NORTH ELEVATION

SCALE 9/100 =  $Y' - 0.0$ [illegible]

**Legal Description  
Lease Parcel**

A portion of Section 22 Township 21 North, Range 7 East G&SRM Coconino County, Arizona being a portion of Lot 7 and Lot 8 Block 27 and an abandoned portion of Butler Avenue lying between Blocks 16 and Block 27 as shown on the map of the Revised Plat of Brannen Addition recorded in Book 1, Page 42 of Plats, being more particularly described as follows:

**Beginning** at the Northwest corner of Lot 12, Block 16 of said Brannen Addition being a 5/8" rebar with plastic cap stamped LS 15853 and being also the South line of said abandoned Butler Avenue and the East line of Verde Street as shown on said plat of Brannen Addition;

Thence North 00°13'57" West (North 00°06'19" West per Map of Dedication in Case 4, Map 95, Coconino Country Recorder's Office, hereinafter referred to as R1), a distance of 17.07 feet (17.23 feet per R1) along the east line of said Verde Street to a found 5/8" rebar with plastic cap stamped LS 15853 at the beginning of an addition to Verde Street as shown in R1 being the beginning of a curve concave to the southeast having a radius of 30.76 feet (31.00 feet R1) and a central angle of 64°29'21" (64°09'27") and being subtended by a chord which bears North 31°51'21" East 32.83 feet;

Thence northerly and northeasterly along said curve and said new right of way for Verde Street, a distance of 34.63 feet (34.71 feet R1) to a point of reverse curvature;

Thence northeasterly and northerly a distance of 16.08 feet along said new right of way for Verde Street and the arc of said curve concave to the northwest having a radius of 47.08 feet (47.00 feet R1) and a central angle of 19°34'28" to the **True Point of Beginning**;

Thence continuing northeasterly and northerly a distance of 24.26 feet along said new right of way for Verde Street and the arc of said curve concave to the northwest having a radius of 47.08 feet (47.00 feet R1) and a central angle of 29°31'26" to a found 5/8" rebar with plastic cap stamped LS 15853 on the North line of said abandoned Butler Avenue;

Thence continuing northerly, northwesterly and westerly along said new right of way for Verde Street, a distance of 83.37 feet along a curve concave to the southwest having a radius of 47.08 feet (47.00 feet R1) and a central angle of 101°27'22" and being subtended by a chord which bears North 35°43'34" West 72.89 feet to a point of cusp on the east right of way of an abandoned portion of Verde Street as shown on R1 being also a point on the West line of Lot 8, Block 27 of said Brannen Addition and a found aluminum cap stamped LS 25083;

Thence North 00°23'16" West along said West line of said Lot 8, a distance of 20.28 feet to a found aluminum cap stamped LS 25083 at a point on the South line of the realigned Butler Avenue per City of Flagstaff Right of Way Dedication Docket 1516, Page 135,



**Legal Description  
Lease Parcel  
(continued)**

Coconino County Recorder as shown in the City of Flagstaff Right of Way Plans for the Butler Avenue – Phase 1 Project No. 03-66005 City of Flagstaff City Hall (hereinafter referred to as R2) ;

Thence South 46°25'25" East (South 46°27'25" East R2) along the realigned Butler Avenue, a distance of 33.72 feet (34.30' R2) to the beginning of a curve concave to the northeast having a radius of 555.00 feet (R2 & M) and a central angle of 9°09'12" (9°05'44") and being subtended by a chord which bears South 50°57'41" East 88.57 feet;

Thence southeasterly along the realigned Butler Avenue and said curve, a distance of 88.66 feet (88.10 feet) to a point on the North line of said abandoned portion of Butler Avenue and the continuation of said curve concave to the northeast having a radius of 555.00 feet (R2 & M) and a central angle of 4°54'16" and being subtended by a chord which bears South 57°59'25" East 47.49 feet;

Thence continuing southeasterly and easterly along said curve and said south line of the realigned Butler Avenue, a distance of 47.51 feet to a point of cusp;

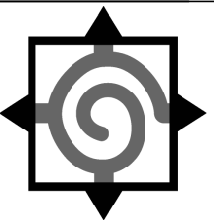
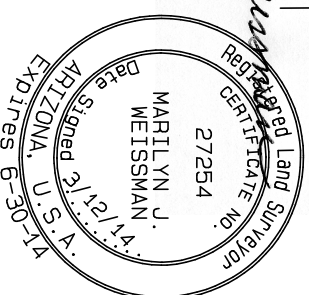
Thence South 89°30'54" West, a distance of 97.85 feet;

Thence North 45°37'19" West, a distance of 6.79 feet to the **True Point of Beginning**.

Said parcel contains 3275 Square Feet of 0.075 ACRES, more or less and is subject to existing easements of record.



Markus Weisbach



# Four Winds

## Land Surveys, Inc.

1055 E Apple Way Flagstaff, AZ 86001  
tel/fax 928-779-5323 email FWland@aol.com

A Portion of Section 22,  
Township 21 North, Range 7 East  
GSSRM Coconino County, Arizona

<b>Scale:</b> 1"=30'	<b>Date:</b> 3/12/14	<b>Job #:</b> 13023
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Job #: 13023



# City of Flagstaff

February 10, 2014

Mr. Eric Wolverton  
Habitat for Humanity of Northern Arizona  
2016 N. 4th Street  
Flagstaff, AZ 86004

RE: Project Approval (DEV 13-049)

Dear Mr. Wolverton:

As of the date of this correspondence, the City of Flagstaff, Development Review Staff has approved Project No. DEV 13-049 for the new 1,196 square foot single family dwelling which is to be constructed by Habitat for Humanity of Northern Arizona on property owned by the City of Flagstaff, located at 300 S. Verde Street, Coconino County Assessor's Parcel Numbers 104-01-102 and 104-01-046B. The approved project is subject to the attached Conditions of Approval.

Development of the project shall substantially conform to the approved plans as follows:

- Site Plan prepared by Karl Gunther Eberhard Architect, dated December 2013.
- Building Elevation Plan(s) prepared by Karl Gunther Eberhard Architect, dated December 2013.
- Building Floor Plan(s) prepared by Karl Gunther Eberhard Architect, dated December 2013.

We look forward to working with you and your development team through the construction and completion of the approved project. Please feel free to contact me should you have any questions.

Sincerely,

Tiffany Antol, Planning Development Manager  
City of Flagstaff, Current Planning Section  
P. 928-213-2608  
F. 928-213-2609  
[tantol@flagstaffaz.gov](mailto:tantol@flagstaffaz.gov)

Attachment: Conditions of Approval

**Conditions of Approval**

1. If the existing 4" Austrian Pine located at the front of the proposed residence cannot be saved, it will need to be replaced with 2 new trees, 4 shrubs and 4 ground covers in compliance with Section 10-50.60.050.B of the Zoning Code. A plan for this landscaping must be submitted and approved prior to installation.
2. The lot combination/split form must be executed and recorded prior to issuance of a building permit.
3. A land lease with the City of Flagstaff must be executed prior to issuance of a building permit.

# **GROUND LEASE AGREEMENT AND DEVELOPMENT AGREEMENT**

## **CITY OF FLAGSTAFF and HABITAT FOR HUMANITY OF NORTHERN ARIZONA, INC.**

THIS LEASE (this "Lease") is made and entered into this ____ day of _____, 2014, by and between the CITY OF FLAGSTAFF, an Arizona municipal corporation (the "City" or "Lessor") and **HABITAT FOR HUMANITY OF NORTHERN ARIZONA, INC.**, an Arizona non profit corporation (the "Developer" or "Lessee").

### **RECITALS**

- A. The City is a municipal corporation formed under the laws of the State of Arizona with various powers to further and protect the health and welfare of the citizens of Flagstaff, including the power to develop and preserve decent, permanently affordable housing and to create homeownership opportunities for the workforce of the community who otherwise would be denied such opportunities because of limited financial resources.
- B. A goal of the City is to stimulate the development of decent, affordable housing to the community's workforce and to provide access to housing for such persons at affordable prices through the use of long-term ground leases.
- C. The Developer, a non profit housing organization, shares the purposes and goals of the City and has agreed to enter into this Lease not only to obtain those benefits to which the Lessee is entitled under this Lease, but also to further the public purposes of the Lessor. The City and Developer acknowledge and agree that significant benefits will accrue to the City from the development of the Land with affordable housing, and from other tangible and intangible, direct and indirect, benefits to the City and its citizenry. The City and Developer acknowledge that, with respect to the respective duties and obligations of the City and the Developer under this Lease, this Lease also constitutes a development agreement pursuant to the provisions of A.R.S. §900.05.
- D. Lessor and Lessee recognize the special nature of the terms and conditions of this Lease, and each of them, with the independent and informed advice of legal counsel, freely accepts these terms and conditions, including those terms and conditions that may affect the marketing and resale price of any Improvements on the Land to be developed by Lessee.
- E. It is mutually understood and accepted by Lessor and Lessee that the terms and conditions of this Lease further their shared goals over an extended period of time and through a succession of owners.

NOW THEREFORE, in consideration of the foregoing recitals, of the mutual promises of Lessor and Lessee, and of other good and valuable consideration, Lessor and Lessee agree as follows:

#### **1. DEFINED TERMS**

The following terms, as used in this Lease, shall have the meanings hereinafter set forth:

- 1.1. "CITY." The City of Flagstaff, an Arizona municipal corporation, or its successors-in-interest to the Lessor's rights under this Lease.
- 1.2. "DEVELOPER." Habitat for Humanity of Northern Arizona, Inc, an Arizona non profit corporation, or any assignee or other successor-in-interest to the rights of Habitat for Humanity of Northern Arizona, Inc. under this Lease which is approved by Lessor in accordance with the provisions of **Section 11** below.
- 1.3. "DEVELOPMENT PLAN." The development plan for the Land prepared by Lessee and approved by Lessor pursuant to the provisions of **Section 4.4** below, and any subsequent amendments or modifications thereto which are approved by Lessor.
- 1.4. "GROUND LEASE FEE." The applicable rent payable with respect to the Land or any portion thereof, pursuant to the terms of **Section 5.1** below.
- 1.5. "IMPROVEMENTS." Any and all improvements constructed by Lessee on the Land, including, without limitation, buildings, structures, fixtures, utilities, landscaping, streets, sidewalks and similar improvements and specifically including Residential Dwelling Units.
- 1.6. "INCOME-QUALIFIED PERSON." An "Income-Qualified Person" shall mean a person or group of persons whose household income does not exceed eighty percent (80%) of the area median income for the applicable standard metropolitan statistical area or county as calculated and adjusted for household size from time to time by the U.S. Department of Housing and Urban Development ("HUD"), or any successor.
- 1.7. "INTENT TO SELL NOTICE." A notice delivered by Lessee to Lessor as provided in **Section 10.3** below in which Lessee notifies Lessor that it intends to sell and assign its interest in the Land or any portion thereof and the appurtenant Improvements constructed thereon.
- 1.8. "LAND." That real property legally described in **Exhibit "A"** attached hereto and incorporated herein by this reference upon which the Developer shall develop affordable housing in accordance with the approved Development Plan.
- 1.9. "LESSEE." The Developer or any successor-in-interest or assignee approved by Lessor pursuant to the provisions of **Section 11** below.
- 1.10. "LESSOR." The City and any successor-in-interest to the interest of the City under this Lease, including, without limitation, any community land trust formed for such purpose.
- 1.11. "LOT." A legally subdivided parcel of Land, pursuant to a lot split, subdivision plat or similar process, created for the purpose of constructing a Residential Dwelling Unit thereon.
- 1.12. "PERMITTED MORTGAGE." Any mortgage or deed of trust recorded against Lessee's leasehold interest in the Land or any portion thereof, for the benefit of any third-party lender providing development, construction or permanent financing to Lessee and which is approved pursuant to the provisions of **Section 8** below.
- 1.13. "PERMITTED MORTGAGEE." Any holder of a Permitted Mortgage.

- 1.14. "REPLACEMENT GROUND LEASE." A ground lease agreement to be entered into by and between Lessor and a Residential Assignee concurrently with the sale and/or conveyance of a Residential Dwelling Unit which has been constructed on the Lot which is the subject of such Replacement Ground Lease, which Replacement Ground Lease shall govern the rights, duties and obligations of the Lessor and the Residential Assignee with respect to such Lot.
- 1.15. "RESIDENTIAL ASSIGNEE." An Income-Qualified Person to whom a Residential Dwelling Unit has been sold and/or conveyed, together with a partial assignment of the interest of Lessee under this Lease with respect to the Lot upon which such Residential Dwelling Unit has been constructed.
- 1.16. "RESIDENTIAL DWELLING UNIT." A single-family dwelling unit which has been constructed on any Lot pursuant to the Development Plan.

## 2. **TRANSFER OF LEASED LAND**

- 2.1. **LAND.** The Lessor, in consideration of the rents reserved herein and the terms and conditions of this Lease, including, without limitation, the obligations of Lessee set forth in **Section 4.4** below, does hereby lease to Lessee, and Lessee does hereby lease from Lessor, the Land as described in the attached **Exhibit "A"** attached hereto and incorporated herein by this reference. Lessor has furnished to Lessee a copy of the most current, if any, title report previously obtained by Lessor for the Land, and Lessee accepts title to the Land in its existing "as is," "where is" condition as of the execution of this Lease, and acknowledges that Lessor has made no representation or warranty of any kind whatsoever with respect to the Land, its condition, or its developability for the purposes contemplated by this Lease or the costs of development.
- 2.2. **RESERVATION OF WATER RIGHTS.** Lessor expressly reserves to itself, its successors and assigns forever, all surface and groundwater rights associated with the Land. This reservation shall not diminish the right of the Lessee under this Lease to occupy and freely use the Land for the purposes for which they are leased to Lessee. Any eventual extraction or use by the Lessor of water resources shall be carried out with as little disruption to the Lessee as is reasonably possible. In instances requiring a material disruption of the Lessee's right of use and occupancy of the Land, the Lessor shall not make such extraction or use without the consent of the Lessee.

## 3. **DURATION OF LEASE**

- 3.1. **PRINCIPAL TERM.** The term of this Lease shall be Ninety-Nine (99) years, commencing on the ____ day of _____, 2014, and terminating on the ____ day of _____, 2113; provided, however, that this Lease shall terminate with respect to each Lot upon which a Residential Dwelling Unit has been constructed concurrently with the sale and conveyance of such Residential Dwelling Unit to a Residential Assignee and the execution of a Partial Assignment of Lease to Residential Assignee as required pursuant to **Section 11.2** below, and a Replacement Ground Lease with respect to such Lot.
- 3.2. **CHANGE OF LESSOR; LESSEE'S RIGHT TO PURCHASE.** In the event that fee title to the Land is conveyed or transferred (whether voluntarily or involuntarily) by Lessor to

any other person or entity, this Lease shall not cease, but shall remain binding and unaffected by such conveyance or transfer. However, in the event Lessor desires or attempts to convey the Land to any person or entity other than a nonprofit corporation, charitable trust, governmental agency or other similar entity sharing the goals described in the Recitals above (or as security for a mortgage loan), the Lessee shall have a right of first refusal to purchase the Land or such portion of the Land then being leased by Lessee, which right of first refusal is more specifically set forth in ***Exhibit "B"*** attached hereto.

#### 4. **USE OF LAND**

- 4.1. **RESIDENTIAL USE ONLY.** Lessee shall use, and shall cause all occupants to use, the Land and all Improvements constructed thereon only for residential purposes and any incidental activities related to residential use that are currently permitted by applicable zoning laws or permitted under amendments to such zoning laws as may be enacted from time to time.
- 4.2. **RESPONSIBLE USE AND COMPLIANCE WITH ALL LAWS.** Lessee shall use the Land in a manner so as not to cause actual harm to others or create any nuisances, public or private; and shall dispose of any and all waste in a safe and sanitary manner. Lessee shall maintain the Land and Improvements in good, safe, and habitable condition in all respects, except for normal wear and tear, in full compliance with all applicable laws and regulations, and in such condition as is required to maintain the insurance coverages required by ***Section 9.4*** of this Lease.
- 4.3. **INSPECTION.** Lessor may inspect any portion of the Land at any reasonable time and in any reasonable manner, upon at least twenty-four (24) hours' oral or written notice to Lessee. In the event of an actual or perceived emergency, Lessor may inspect any portion of the Land without notice, provided that Lessor shall have made reasonable efforts to give advance notice to Lessee. Notwithstanding anything contained in the foregoing to the contrary, in no event shall Lessor have the right to inspect the interior of any Improvements constructed on the Land without first obtaining the express or implied consent of the owner thereof or complying with all applicable federal, state and local laws.
- 4.4. **DEVELOPMENT OBLIGATIONS.** Lessor has leased the Land to Lessee for the development, construction and resale of affordable housing as described in the Recitals. In connection therewith, Lessee hereby acknowledges, covenants and agrees that, as a material part of the consideration to Lessor under this Lease, it shall develop the Land pursuant to a Development Plan prepared by Lessee and submitted to Lessor for review and approval in accordance with Lessor's normal plan review procedures, which Development Plan shall conform to the conceptual development plan submitted by Lessee to Lessor. Such Development Plan shall be submitted to Lessor not later than three (3) months after the date of this Lease. Once approved by Lessor, the plan for the development of the Land shall hereinafter be referred to as the "Development Plan." After Lessor's approval of the Development Plan, the Lessee shall proceed to diligently and continuously cause the development of the Land to occur in accordance with the Development Plan, which development shall include the construction and installation of all off-site and on-site improvements required with respect to the construction and use of Residential Dwelling Units on the Land, and the ultimate construction of Residential



Dwelling Units for resale to Income-Qualified Persons. If the Lessee has failed to commence development of the Land in accordance with the Development Plan by that date that is four (4) months after the date of this Lease, or if Lessee fails to complete the development of the Land with all of the Improvements contemplated pursuant to the Development Plan by that date that is twelve (12) months after the date of this Lease, Lessor shall have the right to elect to terminate this Lease with respect to all portions of the Land which remain undeveloped by Lessee and which have not been assigned to a Residential Assignee. Notwithstanding anything contained in this Lease to the contrary, the provisions of this **Section 4.4** shall automatically terminate and be of no further force or effect after such time as the Lessee has developed the entirety of the Land in accordance with the Development Plan and assigned all of its right, title and interest under this Lease to Residential Assignees pursuant to the provisions set forth in **Section 10** below.

- 4.5. **RIGHT TO RECORD RESTRICTIVE DOCUMENTS.** As part of the development of the Land pursuant to the Development Plan, Lessee shall have the right, with Lessor's approval as described below, to subject the Land to covenants, conditions, restrictions, subdivisions and/or condominium regimes (the "Deed Restrictions"), which Deed Restrictions shall be consistent with the Development Plan and reasonably compatible with the development of the Land for affordable housing purposes. Lessee shall submit a copy of any proposed Deed Restrictions which Lessee desires to record with respect to the leasehold interest held by Lessee to Lessor for its approval prior to recordation, which approval shall not be unreasonably withheld. If Lessor disapproves of any proposed Deed Restrictions, Lessor shall provide the reason for such disapproval. After any such proposed Deed Restrictions are approved by Lessor, Lessee shall have the right to record said Deed Restrictions against Lessee's leasehold interest in the Land.
- 4.6. **LESSEE'S RIGHT TO PEACEFUL ENJOYMENT.** Lessee has the right to the undisturbed enjoyment of the Land, subject to the terms, covenants, conditions, provisions, restrictions or reservations of this Lease.

## **5. GROUND LEASE FEE**

- 5.1. **GROUND LEASE FEE.** In consideration of the possession, continued use, and occupancy of the Land, Lessee shall pay to Lessor a monthly Ground Lease Fee (the "Ground Lease Fee") equal to the sum of:
- (a) A Land Use Fee in the amount of Thirty Dollars (\$30.00) per month per residential unit owned by Developer which shall be increased annually, as of January 1 of each year, based upon the Consumer Price Index for all Urban Consumers (CPI-U), U.S. City Average, West Region, All Items, Index Base Period 1982-84 = 100 ("CPI") as published by the Bureau of Labor Statistics of the United States Department of Labor. If publication is discontinued or published less frequently, then CPI shall mean a substitute index published by a United States governmental body or recognized United States financial institution that reasonably reflects and monitors consumer prices in the United States; *plus*

- (b) One-twelfth (1/12th) of the estimated annual real estate taxes for the Land, if any; the estimated amount of any other municipal charges applicable to the ownership or use of the Land, such as water, sewer or snow removal charges; and the annual payment due for special assessments or tax adjustments against the Land;
- 5.2. CALCULATION OF GROUND LEASE FEE. Promptly after the calculation of bills for real property taxes, special assessments and other items which constitute portions of the Ground Lease Fee, the Lessor shall give the Lessee notice of the estimated total amount of the Ground Lease Fee for the ensuing twelve (12) month lease period. If a bill for the twelve (12) month lease period for any item included in the Ground Lease Fee is not available at the time the Lessor gives such notice, the Lessor shall make a projected computation based upon the charge for such item for the current twelve (12) month period, which may be further adjusted by Lessor upon receipt of the bill.
- 5.3. PAYMENT OF GROUND LEASE FEE. The Ground Lease Fee shall be payable to Lessor, at the address specified in this Lease as Lessor's address, on the first day of each month for as long as this Lease remains in effect, unless, with Lessor's consent, the Ground Lease Fee is to be escrowed by a Permitted Mortgagee, in which case payment shall be made as specified by that Permitted Mortgagee. If this Lease commences on a day other than the first day of a calendar month, a pro-rata portion of the Ground Lease Fee shall be paid for the balance of the month at the time this Lease is executed.
  - 5.3.1. Late Payment. All amounts due from the Lessee to Lessor that are not paid by Lessee when due shall be subject to a penalty of ten percent (10%) of the amount due, plus interest at the rate of one (1%) percent per month or fraction of a month from the date due and owing until paid.
  - 5.3.2. Payment from Sales Proceeds. In the event that any amount of the Ground Lease Fee remains unpaid when any Improvements are sold and this Lease is partially assigned to another party, including, without limitation, to a Residential Assignee, the amount of the unpaid Ground Lease Fee shall be paid to Lessor out of any proceeds from the sale of the Improvements otherwise payable to Lessee upon the closing of such sale.
- 5.4. ADJUSTMENT OF GROUND LEASE FEE. The Ground Lease Fee stated in **Section 5.1** above shall be applicable during the term of this Lease. However, in the event that if, for any reason, the provisions of **Section 10** regarding transfers of the Improvements are suspended or invalidated for any period of time, then during that time, the Ground Lease Fee shall be increased to an amount calculated by Lessor to equal the fair rental value of the Land as if the Land was not restricted by the provisions of the suspended portions of this Lease. In such event, Lessor shall give Lessee ninety (90) days' written notice of the amount calculated in this way, and the Ground Lease Fee shall be this amount, upon expiration of the 90-day notice period.

## 6. TAXES AND ASSESSMENTS

- 6.1. **PAYMENT OF TAXES AND ASSESSMENTS BY LESSOR.** Provided that the Lessee has paid the Ground Lease Fee promptly and fully in accordance with the provisions of this Lease, Lessor shall pay all applicable taxes or assessments, if any, payable with respect to its ownership of the Land with the proceeds generated from the Ground Lease Fee. Lessor shall keep that portion of the Ground Lease Fee designated for taxes or assessments in a tax escrow account. Such tax escrow account may contain funds collected for such purpose from other leases of Lessor. Lessee shall not be entitled to any interest on the payments made. Lessor may from time to time, in its sole discretion, change the number, location or other aspects of the account.
- 6.2. **TAXES AND ASSESSMENTS ON IMPROVEMENTS.** Lessee shall be responsible for payment of all taxes and assessments, no matter how designated, that relate to the Improvements ("Taxes") until such time as any such Improvements are sold and/or conveyed to a Residential Assignee, whereupon such Residential Assignee shall become responsible for payment of such Taxes pursuant to the terms and conditions of the Replacement Ground Lease applicable thereto. Lessee shall be permitted to pay all Taxes directly to the taxing authority, as long as Lessee is not in default under this Lease, and shall pay all such Taxes as and when payable, prior to delinquency.
- 6.3. **LESSEE'S RIGHT TO CONTEST.** Lessee shall have the right to contest the amount or validity of any Taxes relating to the Improvements and the Land. Lessor shall, upon written request by Lessee, join in any such proceedings if Lessee reasonably determines that it is necessary or convenient for Lessor to do so. All other costs and expenses of such proceedings shall be paid by Lessee. Notwithstanding the foregoing, Taxes against or including the Land shall be contested only with the concurrence of Lessor.
- 6.4. **PAYMENTS IN EVENT OF DELINQUENCY.** In the event that Lessee fails to pay any Taxes or other charges specified in **Section 6.2** above, Lessor may increase Lessee's Ground Lease Fee in an amount that will offset the cost of any delinquent and current Taxes or other charges. Upon collecting any such amount, Lessor shall pay the amount collected to satisfy the Taxes or other charges in a timely manner.
- 6.5. **PROOF OF COMPLIANCE.** Concurrently with the payment of any Taxes and other charges required or permitted by the provisions of this Lease, each party shall furnish evidence satisfactory to the other documenting the payment. A photocopy of a receipt for such charges showing payment prior to the due date shall be the usual method of furnishing such evidence.

## 7. IMPROVEMENTS

- 7.1. **OWNERSHIP.** It is hereby acknowledged and agreed by the Lessor and Lessee that all Improvements developed, constructed or placed by the Lessee on any part of the Land at any time during the term of this Lease shall be property of the Lessee, and title to such Improvements shall be and remain in the Lessee or Lessee's permitted assigns, including, without limitation, any Residential Assignee. However, Lessee's exercise of the rights of ownership is subject to the provisions of this Lease, including, but not limited to, provisions regarding the disposition of Improvements by the Lessee as set forth in

**Section 10** below. In addition, Lessee shall not sever or move the Improvements from the Land.

7.2. **CONSTRUCTION AND ALTERATION.** Any construction in connection with an existing or new Improvement is subject to the following conditions:

- (a) All costs shall be borne and paid for by the Lessee;
- (b) All construction shall be performed in a workmanlike manner and shall comply with all applicable laws and regulations;
- (c) All construction shall be consistent with the permitted uses set forth in **Section 4**;
- (d) Alterations or modifications which affect the affordability of the Improvement shall not be constructed without the prior written consent of Lessor, which consent shall not be unreasonably withheld; and
- (e) Lessee shall furnish to Lessor a copy of any plans and shall obtain all required building permits from the Lessor for such construction prior to commencing construction.

7.3. **PROHIBITION OF LIENS.** No lien of any type shall attach to the Lessor's title to the Land or to Lessor's interest in the Land or to any other property owned by the Lessor. Lessee shall not permit any statutory or similar lien to be filed against the Land, the Improvements, or any interest of Lessor or Lessee that remains more than sixty (60) days after it has been filed. Lessee shall cause any such lien to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction, or as otherwise permitted by law. If Lessee fails to cause such lien to be discharged within the 60-day period, then, in addition to any other right or remedy, Lessor may, but shall not be obligated to, discharge the lien by paying the amount in question. Lessee may, at Lessee's expense, contest the validity of any such asserted lien, provided Lessee has furnished a bond in an amount sufficient to release the Land from such lien. Any amounts paid by Lessor to discharge such liens shall be deemed to be an additional Ground Lease Fee payable by Lessee upon demand.

7.4. **MAINTENANCE AND SERVICES.** Lessee shall, at Lessee's sole expense, maintain the Land and all Improvements (but only during Lessee's ownership thereof) as required by this Lease and in accordance with all applicable laws, rules, ordinances, orders and regulations of all governmental agencies and entities having jurisdiction and all insurance companies insuring all or any part of the Land or Improvements. Except to the extent Lessor is acting in its capacity as a designated service provider or public utility, and subject to Lessee's payment of all associated hook-up and service fees related thereto, Lessor shall not be required to furnish any services or facilities, including, but not limited, to heat, electricity, air conditioning, or water, or to make any repairs to the Land or Improvements, and Lessee hereby assumes the sole responsibility for furnishing all services or facilities.

## 8. FINANCING

- 8.1. **PERMITTED MORTGAGE.** Lessee may mortgage its leasehold interest in the Land only with the written consent of Lessor. Not less than thirty (30) days prior to the date on which Lessee (or a prospective Residential Assignee who has contracted to purchase any Improvements) requests Lessor's consent to a mortgage to be effective, Lessee (or the prospective Residential Assignee) shall furnish to Lessor copies of every document to be executed in connection with the transaction represented by such mortgage. Lessor may choose to consent to any mortgage, and in so doing shall designate such mortgage as a "Permitted Mortgage." However, Lessor hereby acknowledges and agrees that it shall consent to a mortgage if at the time such copies of documents are submitted and at the time proposed by Lessee (or the prospective Residential Assignee) for the execution of such documents, (a) no default is then outstanding, and (b) the mortgage submitted is a standard Permitted Mortgage as defined in *Exhibit "C"* attached hereto. Lessee shall pay to Lessor at Lessor's option, as an additional Ground Lease Fee, all fees, costs, and expenses, including, without limitation, reasonable attorneys' fees, incurred by Lessor in connection with any Permitted Mortgage.
- 8.2. **RIGHTS OF PERMITTED MORTGAGEE.** Any holder of a Permitted Mortgage ("Permitted Mortgagee") shall without requirement of consent by the Lessor have the rights identified and defined in *Exhibit "C"* attached hereto.
- 8.3. **INAPPLICABILITY OF CERTAIN PROVISIONS PURSUANT TO FORECLOSURE.** In the event of a foreclosure sale by a Permitted Mortgagee or the delivery of a deed to a Permitted Mortgagee in lieu of foreclosure in accordance with the provisions of this Lease, at the election of the Permitted Mortgagee, the provisions of *Section 10.3* of this Lease, which require that Intent To Sell Notices be provided to Lessor with respect to any Improvements subject to a pending transfer, shall not apply or be effective with respect to the Improvements which are the subject of such foreclosure sale or deed-in-lieu of foreclosure.
- 8.4. **AMENDMENTS SUBJECT TO APPROVAL BY PERMITTED MORTGAGEE.** Any amendments to this Lease which affect in any way the rights of any Permitted Mortgagee under this Lease shall be subject to the written approval of each such affected Permitted Mortgagee, which approval shall not be unreasonably withheld or delayed. The passage of thirty (30) days after submittal to any Permitted Mortgagee of a proposed amendment without approval or disapproval by Permitted Mortgagee shall be deemed approval thereof.

## 9. LIABILITY, INSURANCE, DAMAGE AND DESTRUCTION, EMINENT DOMAIN

- 9.1. **LESSEE'S LIABILITY.** Lessee assumes sole responsibility and liability to all persons and authorities related to its possession, occupancy, and use of the Land from and after the date of this Lease.
- 9.2. **INDEMNIFICATION OF LESSOR.** Lessee shall indemnify, defend and hold harmless Lessor for, from and against any and all liability and claims of liability for injury or damage to person or property from any cause on or about the Land. Lessee waives all claims against Lessor for such injury or damage. However, Lessor shall remain liable (and Lessee shall not be required to indemnify and defend Lessor against such liability or

waive such claims of liability) for injury or damage due to the grossly negligent or intentional acts or omissions of Lessor or Lessor's agents or employees.

- 9.3. **PAYMENT BY LESSOR.** In the event the Lessor pays any sum that is the Lessee's responsibility or liability under this Lease, the Lessee shall reimburse the Lessor for such payment and for reasonable expenses caused thereby within ten (10) days after receipt of a statement or invoice therefor from Lessor.

9.4. **INSURANCE.**

- 9.4.1. Commercial General Liability Insurance. Lessee shall, at Lessee's sole expense, provide coverage at least as broad and with the limits of liability not less than those stated below.

9.4.1.1. Commercial General Liability – Occurrence Form (Form CG 0001, ed. 10/93 or any replacements thereof)

General Aggregate	\$2,000,000.00
Products-Completed Operations Aggregate	\$1,000,000.00
Personal & Advertising Injury	\$1,000,000.00
Each Occurrence	\$1,000,000.00
Fire Damage (Any one fire)	\$50,000.00
Medical Expense (Any one person)	Optional

9.4.1.2 Automobile Liability – Any Auto or Owned, Hired and Non-Owned Vehicles (Form CA 0001, ed. 12/93 or any replacement thereof.)

Combined Single Limit Per Accident	
For Bodily Injury and Property damage	\$1,000,000.00

9.4.1.3 Workers' Compensation and Employer's Liability

Workers' Compensation	Statutory
Employer's Liability: Each Accident	\$100,000.00
Disease – Each Employee	\$100,000.00
Disease – Policy Limit	\$500,000.00

9.4.1.4 Professional Liability

Professional Liability	\$1,000,000.00
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9.4.1.5 Builder's Risk

Contract Amount: Shall be in an amount equal to the contract amount, plus additional coverage equal to contract change orders.

- 9.4.2 **SELF-INSURED RETENTIONS/DEDUCTIBLES:** Any self-insured retentions and deductibles shall be declared to and approved by the City. If not approved,

the City may require that the insurer reduce or eliminate such self-insured retentions with respect to the City, its officers, agents, employees, and volunteers.

9.4.3 OTHER INSURANCE REQUIREMENTS: The policies are to contain, or be endorsed to contain, the following provisions:

9.4.3.1 Commercial General Liability and Automobile Liability Coverages:

9.4.3.1.1 The City, its officers, officials, agents, and employees are additional insureds with respect to liability arising out of: activities performed by, or on behalf of Lessee; including the City's general supervision of Lessee; products and completed operations of Lessee; and automobiles owned, leased, hired or borrowed by Lessee.

9.4.3.1.2 Lessee's insurance shall contain broad form contractual liability coverage.

9.4.3.1.3 The City, its officers, officials, agents, employees and volunteers shall be additional insureds to the full limits of liability purchased by Lessee even if those limits of liability are in excess of those required by the contract.

9.4.3.1.4 Lessee's insurance coverage shall be primary insurance with respect to the City, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, agents, employees, or volunteers shall be in excess to the coverage of Lessee's insurance and shall not contribute to it.

9.4.3.1.5 Lessee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

9.4.3.1.6 Coverage provided by Lessee shall not be limited to the liability assumed under the indemnification provisions of the contract.

9.4.3.1.7 The policies shall contain a waiver of subrogation against the City, its officers, officials, agents, and employees for losses arising from work performed by Lessee for the City.

9.4.3.2 Workers' Compensation and Employer's Liability Coverage: The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, agents, employees and volunteers for losses arising from work performed by Lessee for the City.

9.4.3.3 Builder's Risk Insurance

9.4.3.3.1 The City of Flagstaff, the Lessee, and subcontractors shall be Insureds on the policy.

9.4.3.3.2 Coverage shall be written on an all risk, replacement cost basis and shall include, if specifically requested by the City, coverage for flood.

9.4.3.3.3 Policy shall be maintained until whichever of the following shall first occur: (1) final payment has been made; or (2) until no person or entity, other than the City of Flagstaff, has an insurable interest in the property required to be covered.

9.4.3.3.4 Policy shall be endorsed such that the insurance shall not be canceled or lapse because of any partial use or occupancy.

9.4.3.3.5 Policy must provide coverage from the time any covered property becomes the responsibility of the Lessee, and continue without interruption during construction, renovation, or installation, including any time during which the covered property is being transported to the construction installation site, or awaiting installation, whether on or off site.

9.4.3.3.6 Policy shall contain a waiver of subrogation against the City.

9.4.3.3.7 Lessee is responsible for the payment of all policy deductibles.

9.4.4 NOTICE OF CANCELLATION: Each insurance policy required by the insurance provisions of the contract shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the City. Such notice shall be sent directly to: Patrick Brown, Buyer, Purchasing Division, City of Flagstaff, AZ 86001 and shall be sent by certified mail, return receipt requested.

9.4.5 ACCEPTABILITY OF INSURERS: Insurance is to be placed with insurers duly licensed, or with approved unlicensed companies in the State of Arizona and with a "Best's" rating of not less than A-: VII. The City in no way warrants that the above-required minimum insurer rating is sufficient to protect Lessee from potential insurer insolvency.

9.4.6 VERIFICATION OF COVERAGE: Lessee shall furnish the City with Certificates of Insurance (ACORD form) as required by the contract. The Certificates of Insurance for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. Any policy endorsements that restrict or limit coverage shall be clearly noted on the Certificate of Insurance.

9.4.6.1 All Certificates of Insurance shall be received and approved by the City before work commences. Each insurance policy required by the contract shall be in effect at or prior to commencement of work under the contract and remain in effect for the duration of the contract. Failure to maintain the insurance policies as required by the contract or to provide evidence of renewal is a material breach of the contract.



9.4.6.2 All Certificates of Insurance required by the contract shall be sent directly to Patrick Brown, Buyer, Purchasing Division, City of Flagstaff, AZ 86001. The contract number and description shall be noted on the Certificate of Insurance. The City reserves the right to require complete, certified copies of all insurance policies and endorsements required by the contract, at any time.

- 9.4.7 SUBCONTRACTORS: Lessee's certificates shall include all subcontractors as insureds under its policies, or Lessee shall furnish to the City separate certificates for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.
- 9.4.8 APPROVAL: Any modification or variation from the insurance requirements in the contract shall have prior approval from the City Attorney's Office whose decision shall be final. Such action shall not require a formal contract amendment, but may be made by administrative action.
- 9.5. DAMAGE OR DESTRUCTION. Except as otherwise set forth in this Lease, in the event of fire or other damage to any Improvements owned by Lessee, Lessee shall take all steps necessary to ensure the repair of such damage and the restoration of such Improvements to their condition immediately prior to the damage. All such repairs and restoration shall be completed as promptly as possible. Lessee shall also promptly take all steps necessary to ensure that the Land is safe and that the damaged Improvements do not constitute a danger to persons or property.
- 9.6. EMINENT DOMAIN OR PUBLIC DEDICATION.
- 9.6.1. In the event of a taking of the Land by the federal or state governmental authorities, either in its entirety or to such extent that the Improvements owned by Lessee are lost or damaged beyond repair, by reason of eminent domain or other action of public authority prior to the expiration of this Lease, this Lease shall terminate as of the date Lessee is required to give up possession of the Land or the Improvements owned by Lessee, and (a) if the taking occurs prior to the partial assignment of this Lease by Lessee to a Residential Assignee, Lessee shall be entitled to the entire amount of the award with respect to the loss of the Improvements, and Lessor shall be entitled to the entire amount of the award with respect to the loss of the Land or portion thereof which is the subject of the taking, and (b) if the taking occurs after this Lease has been partially assigned to a Residential Assignee, the entire amount of the award paid in connection with the taking shall be allocated as described in the Replacement Ground Lease with respect to the application of insurance proceeds.
- 9.6.2. Any and all proceedings brought by a party in connection with any damages as a result of any taking referred to in this Section shall be conducted at the sole expense of such party. If any provision of law requires that such proceedings be brought by or in the name of any owner or lessee of the premises, such party shall join in such proceedings or permit the same to be brought in its name. Each party agrees to do all acts and to execute all documents that may be required to enable the other to maintain such proceedings. If the party required to join in the proceedings incurs any cost or expense in doing so, such party shall be entitled to

reasonable reimbursement and this entitlement shall constitute a first charge against any award.

## 10. **TRANSFER, SALE, OR DISPOSITION OF IMPROVEMENTS**

- 10.1. **INTENT.** It is the understanding and intent of the Lessor and Lessee that the terms of this Lease, and in particular of this **Section 10**, are intended to (a) permit the free alienation of Lessee's interest in the Land and Improvements, subject to certain limitations on price, which are designed to implement the public purposes set forth in the Recitals to this Lease; (b) limit the inflationary effect of any appreciation in the value of the Improvements; and (c) preserve the affordability of the Improvements for low or moderate income households and expand access to homeownership opportunities for such households.
- 10.2. **TRANSFERS TO INCOME-QUALIFIED PERSONS.** Lessee may transfer its interest in the Land and the Improvements constructed thereon only to Income-Qualified Persons or otherwise only as explicitly permitted by the provisions of this **Section 10**. All such transfers desired to be made by the Developer, as Lessee, shall be subject to Lessor's review and approval as set forth in this **Section 10**. Any purported transfer done without following the procedures set forth in this **Section 10**, except in the case of a transfer to a Permitted Mortgagee in lieu of foreclosure, shall be null and void.
- 10.3. **LESSOR'S APPROVAL OF PURCHASE.** In the event that Lessee wishes to assign its interest in the Land or any portion thereof and sell the Improvements located on the portion of the Land to be transferred, Lessee shall notify Lessor, in writing, of such intent pursuant to an Intent-To-Sell Notice. The Intent-To-Sell Notice shall include all terms and conditions with respect to the transaction contemplated by Lessee, including (a) the identity of the assignee, (b) the purchase price to be paid by the assignee with respect to the Improvements to be purchased by the assignee and the portion of the Land with respect to which this Lease shall be partially assigned to the assignee, and (c) all other material terms and conditions of such transaction. The Intent-To-Sell Notice shall include such information as may be necessary in order to ensure that the proposed assignee qualifies as an Income-Qualified Person as defined in **Section 1.6** above. Not later than ten (10) days after Lessor's receipt of Lessee's Intent-To-Sell Notice, the Lessor shall notify the Lessee as to whether it has approved the assignee and the terms and conditions of the transfer as described in the Intent-To-Sell Notice, and the failure of Lessor to respond within ten (10) days after receipt of Lessee's Intent-To-Sell Notice shall be deemed to be an approval of such transfer.
- 10.4. **RESIDENTIAL ASSIGNEES.** For the purposes of this Lease, a "Residential Assignee," shall be deemed to mean an Income-Qualified Person to whom the Developer has transferred and conveyed Improvements, together with a partial assignment of this Lease with respect to the Lot upon which such Improvements are located, and any subsequent assignee to whom any Residential Assignee further transfers and conveys such Improvements, together with a full assignment of the Replacement Ground Lease applicable thereto. The Developer hereby acknowledges that in order to transfer any portion of the Land, together with the Improvements constructed thereon, to a Residential Assignee, Developer shall comply with all applicable laws, rules and regulations, including, without limitation, obtaining and delivering a subdivision public report to such

Residential Assignee as required and approved by the Arizona Department of Real Estate.

## 11. ASSIGNMENT AND SUBLEASE

- 11.1. LESSOR'S APPROVAL REQUIRED. Except as otherwise provided in **Section 8** (including **Exhibit "C"**) and **Section 10**, Lessee shall not assign, sublease, sell, or otherwise convey any of Lessee's rights under this Lease without the prior written consent of the Lessor. Lessor will apply written guidelines which it has developed to any request to assign, sublease, sell, or otherwise convey any of Lessee's rights or obligations under this Lease, but Lessee agrees that Lessor shall have broad and full discretion to withhold such consent in order to further the mutual purposes and goals set forth in this Lease. If permission is granted, any assignment or sublease shall be subject to the following conditions.
- (a) Any such assignment or sublease shall be subject to all the terms of this Lease;
  - (b) In the case of a sublease, the rental or occupancy fee charged the sublessee shall not be more than that amount charged the Lessee by the Lessor, plus a pass-through of actual costs to the Lessee for the Improvements (such as debt service costs under a Permitted Mortgage); and
  - (c) The written consent of the Permitted Mortgagee, if any, must be obtained.
- 11.2. PARTIAL ASSIGNMENTS TO RESIDENTIAL ASSIGNEES. Subject to Lessor's approval as set forth in **Section 11.1** above, all partial assignments of this Lease to a Residential Assignee who is purchasing any Improvements constructed on a Lot shall be evidenced pursuant to a "Partial Assignment of Lease to Residential Assignee" in the form attached hereto as **Exhibit "D"**. Concurrently with the execution of the Partial Assignment of Lease to Residential Assignee, the Residential Assignee and Lessor shall execute a Replacement Ground Lease with respect to the Lot which is the subject of such partial assignment in the form attached hereto as **Exhibit "E"**, which Replacement Ground Lease shall govern and control the rights, duties and obligations of Lessor and such Residential Assignee with respect to such Lot and shall, in all respects, replace in its entirety the terms and conditions of this Lease with respect to such Lot. Following the execution of the Partial Assignment of Lease to Residential Assignee and the Replacement Ground Lease by and between the Lessor and Residential Assignee, Lessee shall have no further rights, duties or obligations with respect to the Lot which is the subject of such Partial Assignment of Lease to Residential Assignee and Replacement Ground Lease.
- 11.3. PERMITTED MORTGAGE NOT AN ASSIGNMENT. The execution and delivery of any Permitted Mortgage shall not be deemed to constitute an assignment or transfer of this Lease, nor shall any Permitted Mortgagee be deemed an assignee or transferee of this Lease so as to require the Permitted Mortgagee to assume responsibility for the performance of any agreements on the part of the Lessee to be performed under this Lease.
- 11.4. ASSIGNMENT BY LESSOR. Any assignment of Lessor's interest shall be governed by the provisions of **Section 3** of this Lease.

## 12. **DEFAULT**

12.1. **EVENTS OF DEFAULT.** It shall be an event of default ("Event of Default") under this Lease if:

- (a) Lessee fails to pay the Ground Lease Fee or other charges required to be paid by Lessee by the terms of this Lease and such failure is not cured by Lessee or a Permitted Mortgagee within thirty (30) days after notice of such failure is given by Lessor to Lessee and any Permitted Mortgagee. However, if Lessee shall make a good faith partial payment of at least two thirds (2/3) of the amount owed during such initial 30-day period, then such period shall be extended one additional 30-day period.
- (b) Lessee fails to abide by any other material term or condition in this Lease, and such failure is not cured by Lessee or a Permitted Mortgagee within sixty (60) days after notice of such failure is given by Lessor to Lessee and Permitted Mortgagee. However, in the case where the Lessee or Permitted Mortgagee has commenced to cure such default within such 60-day period and is continuing such cure with all due diligence but cannot by the exercise of due diligence cure such default within such period, such period shall be extended for such additional period as may be reasonably required under the circumstances to complete such cure.
- (c) The estate hereby created is taken on execution or by other process of law, or if Lessee is judicially declared bankrupt or insolvent according to law, or if any assignment is made of the property of Lessee for the benefit of creditors, or if a receiver, trustee in involuntary bankruptcy or other similar officer is appointed to take charge of any substantial part of Lessee's property by a court of competent jurisdiction, or if a petition is filed for the reorganization of Lessee under any provisions of the Bankruptcy Act now or hereafter enacted, or if Lessee files a petition for such reorganization, or for arrangements under any provision of the Bankruptcy Act now or hereafter enacted and providing a plan for a debtor to settle, satisfy or extend the time for payment of debts.

12.2. **TERMINATION.** In the case of any of the events of default described above, Lessor may, subject to the rights of any Permitted Mortgagee to cure defaults or extinguish the Lessee's interest in this Lease, immediately or at any time thereafter while the condition of default exists, terminate this Lease and initiate summary proceedings against Lessee. Pursuant to such proceedings, without demand or notice, Lessor may enter all portions of the Land then subject to this Lease and repossess such Land, and expel the Lessee then in default and those claiming rights through such Lessee and remove their effects without being guilty of any manner of trespass, and without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant. If this Lease is terminated by Lessor, or if Lessor reenters any portion of the Land as a result of an Event of Default, the Lessee agrees to pay and be liable for any unpaid Ground Lease Fee, damages which may be due or sustained prior to or in connection with such termination or reentry, and all reasonable costs, fees and expenses (including, without limitation, reasonable attorneys' fees) incurred by Lessor in pursuit of its remedies under this Lease.

- (a) Any Permitted Mortgagee shall have the right, but not the obligation, to cure any default on the part of the Lessee as well as the right to enter upon and take possession of the Land and Improvements subject to the lien of such Permitted Mortgagee if necessary to do so to cure any default.
- (b) If Lessor elects to terminate this Lease, then the Permitted Mortgagee shall have the right (subject to **Section 8** above) to postpone and extend the specified date for the termination of this Lease for a period sufficient to enable the Permitted Mortgagee or its designee to acquire Lessee's interest in the portion of the Land subject to the lien of such Permitted Mortgagee by foreclosure of its mortgage or otherwise.
- (c) Notwithstanding any provision of **Section 12.1** to the contrary, if any Permitted Mortgagee is making the monetary payments required by this Lease or is diligently proceeding to cure any other default or to foreclose the Permitted Mortgage or otherwise obtain possession of the leasehold estate, then any Event of Default shall not operate, or permit Lessor, to terminate this Lease.

Notwithstanding anything contained herein to the contrary, the right of Lessor to terminate this Lease as a result of the occurrence of an Event of Default by Lessee shall apply only with respect to the Lessee. If and after this Lease has been partially assigned to one or more Residential Assignees, no enforcement action taken by Lessor, including without limitation, a termination of this Lease with respect to Lessee, shall affect in any way any Replacement Ground Lease entered into by and between Lessor and any Residential Assignee.

- 12.3. **DEFAULT BY LESSOR.** Lessor shall in no event be in default in the performance of any of its obligations under this Lease unless and until Lessor has failed to perform such obligations within sixty (60) days, or such additional time as is reasonably required to correct any default, after notice by Lessee to Lessor properly specifying Lessor's failure to perform any such obligation.

### 13. **MEDIATION**

- 13.1. **AGREEMENT TO UTILIZE ALTERNATIVE DISPUTE RESOLUTION.** The parties recognize the need to resolve disputes in an expeditious, organized and fair manner. The mediation procedures below reflect the parties' understanding that speedy dispute resolution is essential to occupancy and use of the Land. Should any dispute arise between Lessor and Lessee concerning their respective rights and duties under the terms of this Lease which cannot be resolved in normal interaction, the following mediation and procedures shall be used; provided, however, that any dispute involving the legal validity of this Lease or any portion of the Agreement is specifically excluded from these provisions regarding alternative-dispute resolution. Any such dispute shall be subject to judicial resolution, rather than subject to mediation.
- 13.2. **MEDIATION.** Lessor or Lessee may notify the other by written notice of the desire to enter into mediation of a dispute described in the written notice. Within fifteen (15) days of receipt of the written notice by the other party, Lessor and Lessee will mutually agree upon a disinterested person to mediate their dispute. The mediator shall be a person who has served as a mediator in the Alternative Dispute Resolution Program of the Coconino

County Superior Court, or such other experienced mediator as the parties may agree upon. Efforts to achieve a resolution through mediation shall end after the mediator determines that, despite good faith efforts, the parties are unable to resolve their dispute. In any event, either Lessor or Lessee shall be free to resort to litigation if the dispute has not been resolved within sixty (60) days of the selection of a mediator or, if the parties are unable to agree upon a mediator, within fifteen (15) days of the receipt of the written notice of a request to mediate

#### 14. GENERAL PROVISIONS

- 14.1. NOTICES. Whenever this Lease requires either party to give notice to the other, the notice shall be given in writing and delivered in person or mailed, by certified or registered mail, return receipt requested, to the party at the address set forth below, or such other address designated by like written notice:

***If to Lessor:***

Housing Section  
City of Flagstaff  
211 West Aspen Avenue  
Flagstaff, Arizona 86001

***If to Lessee:***

Executive Director  
Habitat for Humanity of Northern Arizona,  
Inc.  
Post Office Box 3783  
Flagstaff, Arizona 86003

***With a copy to:***

City Attorney  
City of Flagstaff  
211 West Aspen Avenue  
Flagstaff, Arizona 86001

All notices, demands and requests shall be effective upon being deposited in the United States Mail or, in the case of personal delivery, upon actual receipt.

- 14.2. NO BROKERAGE. Lessee warrants that it has not dealt with any broker in connection with the consummation of this Lease and, in the event any claim is made against Lessor relative to dealings with brokers or finders or other parties claiming a commission under this Lease, Lessee shall defend the claim against Lessor with counsel of Lessor's selection and shall indemnify, defend and hold harmless Lessor on account of loss, cost or damage which may arise by reason of any such claim.
- 14.3. INVALID PROVISIONS. If any part of this Lease is unenforceable or invalid, such part shall be deemed eliminated from this Lease and shall not affect the validity of any other part of this Lease or give rise to any cause of action of Lessee or Lessor against the other, and the remainder of this Lease shall be valid and enforced to the fullest extent permitted by law.
- 14.4. WAIVER. The waiver by Lessor at any given time of any term or condition of this Lease, or the failure of Lessor to take action with respect to any breach of any such term or condition, shall not be deemed to be a waiver of such term or condition with regard to any subsequent breach of such term or condition, or of any other term or condition of this

Lease. Lessor may grant waivers in the terms of this Lease, but such waivers must be in writing and signed by Lessor before being effective.

The subsequent acceptance of Ground Lease Fee payments by Lessor shall not be deemed to be a waiver of any preceding breach by Lessee of any term or condition of this Lease, other than the failure of the Lessee to pay the particular Ground Lease Fee so accepted, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such Ground Lease Fee payment.

- 14.5. LESSOR'S RIGHT TO PROSECUTE OR DEFEND. Lessor shall have the right, but shall be under no obligation, to prosecute or defend, in its own or the Lessee's name, any actions or proceedings appropriate to the protection of its title to, and Lessee's interest in, the Land. Whenever requested by Lessor, Lessee shall give Lessor all reasonable aid in any such action or proceeding.
- 14.6. CONSTRUCTION. Whenever in this Lease a pronoun is used it shall be construed to represent either the singular or the plural, masculine or feminine, as the case shall demand.
- 14.7. CAPTIONS AND TABLE OF CONTENTS. The captions and table of contents appearing in this Lease are for convenience only, and are not a part of this Lease and do not in any way limit or amplify the terms or conditions of this Lease.
- 14.8. PARTIES BOUND. This Lease sets forth the entire agreement between Lessor and Lessee with respect to the leasing of the Land; it is binding upon and inures to the benefit of these parties and, subject to and in accordance with the provisions of this Lease, their respective successors-in-interest and permitted assigns. This Lease may be altered or amended only by written notice executed by Lessor and Lessee or their legal representatives or, in accordance with the provisions of this Lease, their successors-in-interest.
- 14.9. GOVERNING LAW. This Lease shall be interpreted in accordance with and governed by the laws of the State of Arizona. The language in all parts of this Lease shall be, in all cases, construed according to its fair meaning and not strictly for or against Lessor or Lessee.
- 14.10. COMPLIANCE WITH ALL LAWS. Lessee shall not use the Land or permit anything to be done in or about the Land which will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or which may hereafter be enacted or promulgated. Lessee shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force.
- 14.11. RECORDING. The parties agree, as an alternative to the recordation of this Lease, to execute a Memorandum of Lease in form recordable and complying with applicable law and reasonably satisfactory to Lessor's attorneys. In no event shall such document set forth the rent or other charges payable by Lessee under this Lease; and any such document shall expressly state that it is executed pursuant to the provisions contained in this Lease, and is not intended to vary the terms and conditions of this Lease.

- 14.12. TIME OF THE ESSENCE. Time is of the essence for the completion of the work described in this Lease. It is anticipated by the parties that all work described herein will be completed within twelve (12) months of the date of execution, and that any delay in the completion of the work described herein shall constitute a material breach of this Lease.
- 14.13. THIRD-PARTY BENEFICIARIES. Nothing in the provisions of this Lease intend to create duties or obligations to or rights in third party not parties to this Lease or affect the legal liabilitys of either party to the Lease by imposing any standard of care different from the standard of care imposed by law.

***SIGNATURE PAGE FOLLOWS***



IN WITNESS WHEREOF, the parties have executed this Ground Lease Agreement as of the day and year first above written.

**"LESSOR"**

CITY OF FLAGSTAFF

By _____  
Gerald W. Nabours, Mayor

***Attest:***

_____  
Name _____  
City Clerk

***Approved as to form:***

_____  
Name _____  
City Attorney

**"LESSEE"**

Habitat for Humanity of Northern Arizona, Inc., an  
Arizona non profit corporation

By _____  
Name Eric Wolverton  
Title Executive Director

***Witnesseth:***

_____  
Name _____

STATE OF ARIZONA       )  
                                          ) ss.  
County of Coconino       )

On this _____ day of _____, 2011, before me, the undersigned officer, personally appeared Gerald W. Nabours, who acknowledged himself to be the Mayor of the CITY OF FLAGSTAFF, an Arizona municipal corporation:

_____ whom I know personally;  
_____ whose identity was proven to me on the oath of _____, a credible witness by me duly sworn;  
_____ whose identity I verified on the basis of his _____,

and she, in such capacity, being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of that entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY SEAL:

_____  
Notary Public

STATE OF ARIZONA       )  
                                          ) ss.  
County of Coconino       )

On this _____ day of _____, 20____, before me, the undersigned officer, personally appeared _____, who acknowledged her/himself to be _____ of _____, a _____:

_____ whom I know personally;  
_____ whose identity was proven to me on the oath of _____, a credible witness by me duly sworn;  
_____ whose identity I verified on the basis of his/her _____,

and s/he, in such capacity, being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of that entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY SEAL:

_____  
Notary Public

Exhibit A  
Legal Description  
Lease Parcel

A portion of Section 22 Township 21 North, Range 7 East G&SRM Coconino County, Arizona being a portion of Lot 7 and Lot 8 Block 27 and an abandoned portion of Butler Avenue lying between Blocks 16 and Block 27 as shown on the map of the Revised Plat of Brannen Addition recorded in Book 1, Page 42 of Plats, being more particularly described as follows:

Beginning for Reference at the Northwest corner of Lot 12, Block 16 of said Brannen Addition being a 5/8" rebar with plastic cap stamped LS 15853 and being also the South line of said abandoned Butler Avenue and the East line of Verde Street as shown on said plat of Brannen Addition;

Thence North 00°13'57" West (North 00°06'19" West per Map of Dedication in Case 4, Map 95, Coconino Country Recorder's Office, hereinafter referred to as R1), a distance of 17.07 feet (17.23 feet per R1) along the east line of said Verde Street to a found 5/8" rebar with plastic cap stamped LS 15853 at the beginning of an addition to Verde Street as shown in R1 being the beginning of a curve concave to the southeast having a radius of 30.76 feet (31.00 feet R1) and a central angle of 64°29'21" (64°09'27") and being subtended by a chord which bears North 31°51'21" East 32.83 feet;

Thence northerly and northeasterly along said curve and said new right of way for Verde Street, a distance of 34.63 feet (34.71 feet R1) to a point of reverse curvature;

Thence northeasterly and northerly a distance of 16.08 feet along said new right of way for Verde Street and the arc of said curve concave to the northwest having a radius of 47.08 feet (47.00 feet R1) and a central angle of 19°34'28" to the True Point of Beginning;

Thence continuing northeasterly and northerly a distance of 24.26 feet along said new right of way for Verde Street and the arc of said curve concave to the northwest having a radius of 47.08 feet (47.00 feet R1) and a central angle of 29°31'26" to a found 5/8" rebar with plastic cap stamped LS 15853 from which a found 5/8" rebar with plastic cap stamped LS 15853 bears North 89°30'54" East, a distance of 63.51 feet, said line being the North line of said abandoned Butler Avenue and the Basis of Bearing for this description per R1;

Thence continuing northerly, northwesterly and westerly along said new right of way for Verde Street, a distance of 83.37 feet along a curve concave to the southwest having a radius of 47.08 feet (47.00 feet R1) and a central angle of 101°27'22" and being subtended by a chord which bears North 35°43'34" West 72.89 feet to a point of cusp on the east right of way of an abandoned portion of Verde Street as shown on R1 being also a point on the West line of Lot 8, Block 27 of said Brannen Addition and a found aluminum cap stamped LS 25083;

(continued)

Thence North  $00^{\circ}23'16''$  West along said West line of said Lot 8, a distance of 20.28 feet to a found aluminum cap stamped LS 25083 at a point on the South line of the realigned Butler Avenue per City of Flagstaff Right of Way Dedication Docket 1516, Page 135,

Coconino County Recorder as shown in the City of Flagstaff Right of Way Plans for the Butler Avenue – Phase 1 Project No. 03-66005 City of Flagstaff City Hall (hereinafter referred to as R2) ;

Thence South  $46^{\circ}25'25''$  East (South  $46^{\circ}27'25''$  East R2) along the realigned Butler Avenue, a distance of 33.72 feet (34.30' R2) to the beginning of a curve concave to the northeast having a radius of 555.00 feet (R2 & M) and a central angle of  $9^{\circ}09'12''$  ( $9^{\circ}05'44''$ ) and being subtended by a chord which bears South  $50^{\circ}57'41''$  East 88.57 feet;

Thence southeasterly along the realigned Butler Avenue and said curve, a distance of 88.66 feet (88.10 feet) to a point on the North line of said abandoned portion of Butler Avenue and the continuation of said curve concave to the northeast having a radius of 555.00 feet (R2 & M) and a central angle of  $4^{\circ}54'16''$  and being subtended by a chord which bears South  $57^{\circ}59'25''$  East 47.49 feet;

Thence continuing southeasterly and easterly along said curve and said south line of the realigned Butler Avenue, a distance of 47.51 feet to a point of cusp;

Thence South  $89^{\circ}30'54''$  West, a distance of 97.85 feet;

Thence North  $45^{\circ}37'19''$  West, a distance of 6.79 feet to the True Point of Beginning. Said parcel contains 3275 Square Feet or 0.075 ACRES, more or less, as shown on the attached Exhibit A-1 made a part hereof by this reference.

## ***Exhibit "B"***

### **FIRST REFUSAL**

Whenever any party under the Ground Lease shall have a right of first refusal as to certain property, the following procedures shall apply. If the owner of the property offering it for sale ("Offering Party") shall within the term of the Ground Lease receive a bona fide, third-party offer to purchase the property that such Offering Party is willing to accept, the holder of the right of first refusal (the "Holder") shall have the following rights:

1. Offering Party shall give written notice of such offer (the "Notice of Offer") to Holder setting forth (a) the name and address of the prospective purchaser of the property, (b) the purchase price offered by the prospective purchaser and (c) all other terms and conditions of the sale. Holder shall have a period of forty-five (45) days after the receipt of the Notice of Offer (the "Election Period") within which to exercise the right of first refusal by giving notice of intent to purchase the property (the "Notice of Intent to Purchase") for the same price and on the same terms and conditions set forth in the Notice of Offer. Such Notice of Intent to Purchase shall be given in writing to the Offering Party within the Election Period.
2. If Holder exercises the right to purchase the property, such purchase shall be completed within sixty (60) days after the Notice of Intent to Purchase is given by Holder (or if the Notice of Offer shall specify a later date for closing, such date) by performance of the terms and conditions of the Notice of Offer, including payment of the purchase price provided therein.
3. Should Holder fail to exercise the right of first refusal within the Election Period, then the Offering Party shall have the right (subject to any other applicable restrictions in the Ground Lease) to go forward with the sale which the Offering Party desires to accept, and to sell the property within one (1) year following the expiration of the Election Period on terms and conditions which are not materially more favorable to the purchaser than those set forth in the Notice. If the sale is not consummated within such one-year period, the Offering Party's right so to sell shall end, and all the foregoing provisions of this Exhibit shall be applied again to any future offer, all as aforesaid. If a sale is consummated within such one-year period, the purchaser shall purchase subject to a renewed right of first refusal in said property.

## *Exhibit "C"*

### PERMITTED MORTGAGES

The provisions set forth in this Exhibit shall be understood to be provisions of Section 8 of the Lease to which the Exhibit is attached and in which the Exhibit is referenced. All terminology used in this Exhibit shall have the meaning assigned to it in the Lease.

1. STANDARD PERMITTED MORTGAGE: A "Standard Permitted Mortgage," as identified in Section 8.1 of the Lease to which this Exhibit is attached, shall be a mortgage that meets the following requirements.
  - 1.1 Such Mortgage shall run in favor of either (a) a so-called institutional lender such as, but not limited to, a federal, state, or local housing finance agency, a bank (including savings and loan association or insured credit union), an insurance company, a pension and/or profit-sharing fund or trust, or any combination of the foregoing, the policies and procedures of which institutional lender are subject to direct governmental supervision, or (b) a "community development financial institution" as certified by the U.S. Department of the Treasury, or similar nonprofit lender to housing projects for low- and moderate-income persons.
  - 1.2 Such Mortgage shall be a first lien on all or any of the Improvements and the Lessee's leasehold interest in the Land (the "Security").
  - 1.3 Such Mortgage and related documentation shall provide, among other things, that in the event of a default in any of the mortgagor's obligations thereunder, the holder of such Mortgage shall notify Lessor of such fact and Lessor shall have the right (but shall not have the obligation) within 120 days after its receipt of such notice, to cure such default in the mortgagor's name and on mortgagor's behalf, provided that current payments due the holder during such 120-day period (or such lesser time period as may have been required to cure such default) are made to the holder, and shall further provide that said holder shall not have the right, unless such default shall not have been cured within such time, to accelerate the note secured by such Mortgage or to commence to foreclose under the Mortgage on account of such default.
  - 1.4 Such Mortgage and related documentation shall provide, among other things, that if after such cure period the holder intends to accelerate the note secured by such Mortgage or initiate foreclosure proceedings under the Mortgage, in accordance with the provisions of the Lease, the holder shall first notify Lessor of its intention to do so and Lessor shall have the right, but not the obligation, upon notifying the holder within thirty (30) days of receipt of said notice from said holder, to pay off the indebtedness secured by such Mortgage and to acquire such Mortgage.
  - 1.5 Such Mortgage and related documentation shall provide, among other things, that, in the event of foreclosure sale by a Permitted Mortgagee or the delivery of a deed to a Permitted Mortgagee in lieu of foreclosure, upon acquisition of title to the Improvements and the Lessee's interest in the Land by the Permitted Mortgagee, the Permitted Mortgagee shall give the Lessor written notice of such acquisition and the Lessor shall have an option to purchase the Improvements and acquire the Lessee's interest in the

Land from the Permitted Mortgagee for the full amount owing to the Permitted Mortgagee under the Permitted Mortgage; provided, however, that the Lessor gives written notice to the Permitted Mortgagee of the Lessor's intent to purchase the Improvements and acquire the Lessee's interest in the Land within thirty (30) days following the Lessor's receipt of the Permitted Mortgagee's notice of such acquisition of the Improvements and Lessee's interest; further provided that Lessor shall complete the purchase of the Improvements and acquisition of Lessee's interest in the Land within sixty (60) days of having given written notice of its intent to purchase; and provided that, if the Lessor does not complete the purchase within such period, the Permitted Mortgagee shall be free to sell the Improvements and transfer the Lessee's interest in the Land to another person;

- 1.6 Such Mortgage and related documentation shall not contain any provisions other than provisions generally contained in mortgages used for similar transactions in the Flagstaff, Arizona area by institutional mortgagees.
- 1.7 Such Mortgage and related documentation shall not contain any provisions which could be construed as rendering Lessor or any subsequent holder of the Lessor's interest in and to the Lease, or their respective heirs, executors, successors or assigns, personally liable for the payment of the debt evidenced by such note and such Mortgage or any part thereof.
- 1.8 Such Mortgage and related documentation shall contain provisions to the effect that the holder of such Mortgage shall not look to Lessor or Lessor's interest in the Land, but will look solely to Lessee, Lessee's interest in the Land, the Improvements, or such other buildings and improvements which may from time to time exist on the Land, for the payment of the debt secured thereby or any part thereof. (It is the intention of the parties hereto that Lessor's consent to such Mortgage shall be without any liability on the part of Lessor for any deficiency judgment).
- 1.9 Such Mortgage and related documentation shall provide that in the event any part of the Security is taken in condemnation or by right of eminent domain, the proceeds of the award shall be paid over to the holder of the Mortgage in accordance with the provisions of Section 8 of the Lease.
- 1.10 Such Mortgage and related documentation shall contain nothing that obligates Lessor to execute an assignment of the Ground Lease Fee or other rent payable by Lessee under the terms of the Lease.

2. **RIGHTS OF PERMITTED MORTGAGEE.** The rights of a holder of a Permitted Mortgage ("Permitted Mortgagee") as referenced under Section 8.2 of the Lease to which this Exhibit is attached shall be as set forth below.

- 2.1 Permitted Mortgagee shall without requirement of consent by the Lessor have the right, but not the obligation, to:
  - 2.1.1. cure any default under the Lease, and perform any obligation required under the Lease, such cure or performance by a Permitted Mortgagee being effective as if it had been undertaken and performed by Lessee;

- 2.1.2 acquire and convey, assign, transfer, and exercise any right, remedy or privilege granted to Lessee by the Lease or otherwise by law, subject to the provisions, if any, in said Permitted Mortgage, which may limit any exercise of any such right, remedy or privilege; and
  - 2.1.3 rely upon and enforce any provisions of the Lease to the extent that such provisions are for the benefit of Permitted Mortgagee.
- 2.2 Permitted Mortgagee shall not, as a condition to the exercise of its rights under the Lease, be required to assume personal liability for the payment and performance of the obligations of the Lessee under the Lease. Any such payment or performance or other act by Permitted Mortgagee under the Lease shall not be construed as an agreement by Permitted Mortgagee to assume such personal liability except to the extent Permitted Mortgagee actually takes possession of the Security and the premises. In the event Permitted Mortgagee does take possession of the Security and thereupon transfers the Security, any such transferee shall be required to enter into a written agreement assuming such personal liability and upon any such assumption the Permitted Mortgagee shall automatically be released from personal liability under the Lease.
- 2.3 In the event that title to the estates of both Lessor and Lessee shall be acquired at any time by the same person or persons, no merger of these estates shall occur without the prior written declaration of merger by Permitted Mortgagee, so long as Permitted Mortgagee owns any interest in the Security or in a Permitted Mortgage. In the event that the estate of Lessor is owned at any time by Lessee (regardless of a merger), or by any person in which Lessee has a direct or indirect interest, Permitted Mortgagee shall not be obligated to cure any default of Lessee under the Lease as condition to the forbearance by Lessor in the exercise of Lessor's remedies as provided in the Lease.
- 2.4 If the Lease is terminated for any reason, or in the event of the rejection or disaffirmance of the Lease pursuant to bankruptcy law or other law affecting creditors' rights, Lessor shall enter into a new lease of the Land with the Permitted Mortgagee (or with any party designated by the Permitted Mortgagee, subject to Lessor's approval, which approval shall not be unreasonably withheld), not more than thirty (30) days after the request of the Permitted Mortgagee. Such lease shall be for the remainder of the term of the Lease, effective as of the date of such termination, rejection, or disaffirmance, and upon all the terms and provisions contained in the Lease. However, the Permitted Mortgagee shall make a written request to Lessor for such new lease within sixty (60) days after the effective date of such termination, rejection, or disaffirmance, as the case may be. Such written request shall be accompanied by a copy of such new lease, duly executed and acknowledged by the Permitted Mortgagee or the party designated by the Permitted Mortgagee to be the Lessee thereunder, and the Permitted Mortgagee shall have cured all defaults under the Lease which can be cured by the payment of money. Any new lease made pursuant to this Section shall have the same priority with respect to other interests in the Land as the Lease. The provisions of this Section shall survive the termination, rejection, or disaffirmance of the Lease and shall continue in full effect thereafter to the same extent as if this Section were independent and an independent contract made by Lessor, Lessee, and the Permitted Mortgagee.



- 2.5 The Lessor shall have no right to terminate the Lease during such time as the Permitted Mortgagee has commenced foreclosure in accordance with the provisions of the Lease and is diligently pursuing the same.
- 2.6 In the event that Lessor sends a notice of default under the Lease to Lessee, Lessor shall also send a notice of Lessee's default to Permitted Mortgagee. Such notice shall be given in the manner set forth in Section 14.2 of the Lease to the Permitted Mortgagee at the address that has been given by the Permitted Mortgagee to Lessor by a written notice to Lessor sent in the manner set forth in said Section 14.2 of the Lease.

***Exhibit "D"***

When recorded, return to:

City of Flagstaff  
Housing Section  
211 West Aspen Avenue  
Flagstaff, Arizona 86001

**PARTIAL ASSIGNMENT OF LEASE TO RESIDENTIAL ASSIGNEE**

THIS PARTIAL ASSIGNMENT OF LEASE TO RESIDENTIAL ASSIGNEE ("***Assignment***") is made and entered into as the ____ day of _____, by and between _____, a _____ ("***Assignor***"), and _____ ("***Assignee***").

**RECITALS**

A. Assignor is the Lessee under that Ground Lease Agreement (the "***Lease***") dated as of _____, by and between the City of Flagstaff, an Arizona municipal corporation, as Lessor, and Assignor, as Lessee, whereby Lessor leased to Assignor that parcel of land more particularly described in the Lease (the "***Land***").

B. Essentially concurrently herewith, Assignor has conveyed to Assignee a Residential Dwelling Unit located on that portion of the Land subject to the Lease, which real property is legally described in ***Exhibit "A"*** attached hereto and incorporated herein by the reference (the "***Lot***").

C. As part of the conveyance of the Residential Dwelling Unit, Assignor desires to partially assign to Assignee, and Assignee desires to acquire and obtain from Assignor, all of Assignor's right, title and interest as Lessee under the Lease with respect to the Lot.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto state, confirm and agree as follows:

1. Assignor hereby irrevocably grants, transfers and assigns to Assignee all right, title and interest of Assignor as Lessee under the Lease with respect to the Lot, together with all rights and privileges related thereto.

2. Assignee hereby expressly assumes and agrees to keep, pay, perform and fulfill all of the terms, provisions, covenants, conditions and obligations of the Lessee under the Lease as it applies with respect to the Lot as of and subsequent to the date hereof and, in connection therewith, hereby agrees to indemnify, defend and hold harmless Assignor for, from and against any and all claims, demands, liabilities and causes of action in any manner related to the breach or default by Assignee under the Lease which occurs on or after the date of this Assignment.

3. The parties hereto acknowledge and agree that this Assignment shall be subject to and conditioned upon the approval of the Lessor under the Lease. In addition, Assignee hereby acknowledges and agrees that, upon the approval of this Assignment by the Lessor, Assignee shall enter into a Replacement Ground Lease with Lessor in the form attached to the Lease as Exhibit "E," which Replacement Ground Lease shall govern and control all of the rights, duties and obligations of Assignee with respect to the Lot and shall replace in its entirety the Lease as it applies to the Lot.

4. This Assignment shall be recorded in the Official Records of Coconino County, Arizona, in order to provide third parties with constructive notice of the partial assignment of the Lease by Assignor to Assignee as the Lease applies to and affects the Lot.

IN WITNESS WHEREOF, the parties have executed this Partial Assignment of Lease to Residential Assignee as of the day and year first above written.

***"ASSIGNOR"***

By _____  
Name _____  
Title _____

***"ASSIGNEE"***

By _____  
Name _____  
Title _____

Exhibit A  
Legal Description  
Lease Parcel

____ whom I know personally;  
____ whose identity was proven to me on the oath of  
____, a credible  
witness by me duly sworn;  
____ whose identity I verified on the basis of his/her  
____;

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

## Notary Public

_____ whom I know personally;  
 _____ whose identity was proven to me on the oath of  
 _____, a credible  
 _____ witness by me duly sworn;  
 _____ whose identity I verified on the basis of his/her  
 _____;

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

**CONSENT OF LESSOR TO ASSIGNMENT**

The undersigned, as the Lessor under the Lease referenced in the foregoing Partial Assignment of Lease to Residential Assignee, hereby consents to the foregoing Assignment of the Lease to which this Consent is attached, and agrees to recognize the Assignee as the Lessee under the Lease with respect to the Lot, subject to all of the terms and conditions of the Replacement Ground Lease to be entered into by and between Lessor and such Assignee and, upon the execution of the Replacement Ground Lease, Lessee shall be deemed to be released of any further duty, obligation or liability with respect to the Lot which is the subject of the foregoing Partial Assignment of Lease to Residential Assignee and Replacement Ground Lease.

IN WITNESS WHEREOF, the undersigned has executed this Consent of Lessor to Assignment as of the date hereunder set forth.

***"LESSOR"***

CITY OF FLAGSTAFF

By _____,  
_____, Mayor

***Attest:***

_____  
Name _____  
City Clerk

***Approved as to form:***

_____  
Name _____  
City Attorney

STATE OF ARIZONA       )  
                                          ) ss.  
County of Coconino       )

Exhibit A  
Legal Description  
Lease Parcel

On this _____ day of _____, 20____, before me, the undersigned officer,  
personally appeared _____, who acknowledged her/himself to be the  
Mayor of the CITY OF FLAGSTAFF, an Arizona municipal corporation:

_____ whom I know personally;  
_____ whose identity was proven to me on the oath of  
_____, a credible  
witness by me duly sworn;

_____ whose identity I verified on the basis of his  
_____

and s/he, in such capacity, being authorized so to do, executed the foregoing instrument for the  
purposes therein contained on behalf of that entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY SEAL:

_____  
Notary Public

*Exhibit "E"*

**GROUND LEASE AGREEMENT**

**City of Flagstaff  
and**

***[Name of Individual Unit Owner]***

THIS LEASE (this "Lease" or the "Lease") made and entered into this ____ day of _____, 20__, by and between the CITY OF FLAGSTAFF (the "CITY" or "Lessor") and _____ "Lessee").

**RECITALS**

- A. The CITY is a municipal corporation formed under the laws of the State of Arizona with various powers to further and protect the health and welfare of the citizens of Flagstaff, including the power to develop and preserve decent, affordable housing and to create homeownership opportunities for the workforce of the community who otherwise would be denied such opportunities because of limited financial resources.
- B. A goal of the CITY is to stimulate the conveyance of decent, affordable housing to the community's workforce by providing access to housing for such persons at affordable prices through the use of long-term ground leases.
- C. The Lot described in this Exhibit A of this Lease (the "Lot") is owned and is being leased by the CITY under this Lease in furtherance of these public purposes.
- D. The Lessee has, concurrently herewith, acquired a Residential Dwelling Unit which has been constructed on the Lot and has assumed a Partial Assignment of Ground Lease with respect to the Lot.
- E. Lessor and Lessee recognize the special nature of the terms and conditions of this Lease, and each of them, with the independent and informed advice of legal counsel, freely accepts these terms and conditions, including those terms and conditions that may affect the marketing and resale price of any Improvements on the Lot.
- F. It is mutually understood and accepted by Lessor and Lessee that the terms and conditions of this Lease further their shared goals over an extended period of time and through a succession of owners.

NOW THEREFORE, in consideration of the foregoing recitals, of mutual promises of Lessor and Lessee, and of other good and valuable consideration, Lessor and Lessee agree as follows:

1. **Letters of Stipulation and Acknowledgment.** Attached as the Exhibit "B", "LETTERS OF STIPULATION AND ACKNOWLEDGMENT," and made part of this Lease by reference are (a) a Letter of Stipulation of Lessee, and (b) a Letter of Acknowledgment of legal counsel of Lessee, setting forth their respective review and understanding of this Lease (in particular,

Section 10, regarding the transfer, sale, or disposition of the Improvements, as defined in Section 7) and related documents for this transaction.

**2. Lease of Lot**

LESSOR: _____

- 2.1. LOT. The Lessor, in consideration of the rents reserved and the terms and conditions of this Lease, does hereby lease to Lessee, and Lessee does hereby lease from Lessor, the property (referred to in this Lease as the "Lot") described in the attached Exhibit "A." Lessee accepts title to the Lot in its condition "as is" as of the execution of this Lease.
- 2.2. RESERVATION OF WATER RIGHTS. Lessor expressly reserves to itself, its successors and assigns forever, all surface and groundwater rights of the Lot. This reservation shall not diminish the right of the Lessee under this Lease to occupy and freely use the Lot. Any eventual extraction or use by the Lessor of water resources shall be carried out with as little disruption to the Lessee as is reasonably possible. In instances requiring a material disruption of the Lessee's right of use and occupancy of the Lot, the Lessor shall not make such extraction or use without the consent of the Lessee.

**3. Duration of Lease**

- 3.1. PRINCIPAL TERM. The term of this Lease shall be Ninety-Nine (99) years, commencing on the ___ day of _____, 20____, and terminating on the _____ day of _____, 20____, unless terminated sooner or extended as provided below.
- 3.2. LESSEE'S OPTION TO EXTEND TERM. Lessee may extend the principal term of this Lease for one (1) additional period of 99 years, subject to all the provisions of this Lease; provided that Lessor may make changes to the terms of the Lease for the renewal period prior to the beginning of such renewal period, but only if these changes do not materially and adversely impair Lessee's rights under the Lease. Not more than 365, nor less than 180, days before the last day of the current term, Lessor shall give Lessee written notice, stating the date of expiration of the Lease, describing any changes that Lessor intends to make to the terms of the Lease as permitted above, and reiterating the conditions for renewal as set forth immediately below (the "Expiration Notice"). Lessee's right to exercise the option to extend is subject to the following conditions:
- 3.2.1. Within sixty (60) days of receipt of the Expiration Notice, Lessee shall give Lessor written notice, irrevocably exercising the option to extend (the "Extension Notice").
- 3.2.2. This Lease shall be in effect at the time the Extension Notice is given and on the last day of the term.
- 3.2.3. There shall not be an Event of Default by Lessee under this Lease or under any loan documents between Lessee and any Permitted Mortgagee at the time the Extension Notice is given and on the last day of the term.
- 3.2.4. When Lessee has rightfully exercised the option to extend, each party shall execute a memorandum, in mutually agreeable recordable form, acknowledging the fact that the option has been exercised and otherwise complying with the requirements of law for an effective memorandum or notice of lease, and such



memorandum or notice of lease shall be recorded in accordance with the requirements of law on or promptly after the commencement of such renewal period of the Lease.

**Lease Parcel**

- 3.3. **CHANGE OF LESSOR; LESSEE'S RIGHT TO PURCHASE.** In the event that ownership of the Lot is conveyed or transferred (whether voluntarily or involuntarily) by Lessor to any other person or entity, this Lease shall not cease, but shall remain binding and unaffected. However, in the event Lessor desires or attempts to convey the Lot to any person or entity other than a nonprofit corporation, charitable trust, governmental agency or other similar entity sharing the goals described in the Recitals above (or as security for a mortgage loan), the Lessee shall have a right of first refusal to purchase the Lot. This right shall be as specified in the attached Exhibit "C," "FIRST REFUSAL." Any sale or other transfer contrary to this Section 3.3 shall be null and void.

**4. Use of Lot**

- 4.1. **RESIDENTIAL USE ONLY.** Lessee shall use, and shall cause all occupants to use, the Lot and Improvements only for residential purposes and any incidental activities related to residential use that are currently permitted by applicable zoning law as indicated in the attached Exhibit "D", "ZONING AND PERMISSIBLE USES." In addition, use of the Land shall be further limited by the restrictions set forth in the attached Exhibit "E", "RESTRICTIONS."
- 4.2. **RESPONSIBLE USE AND COMPLIANCE WITH ALL LAWS.** Lessee shall use the Land in a manner so as not to cause actual harm to others or create any nuisances, public or private; and shall dispose of any and all waste in a safe and sanitary manner. Lessee shall maintain the Lot and Improvements in good, safe, and habitable condition in all respects, except for normal wear and tear, in full compliance with all applicable laws and regulations, and in such condition as is required to maintain the insurance coverage required by section 9.4 of this Lease.
- 4.3. **RESPONSIBLE FOR OTHERS.** Lessee shall be responsible for the use of the Lot by all residents and their families, friends and visitors and anyone else using the Lot with their consent and shall make all such people aware of the spirit, intent and appropriate terms of this Lease.
- 4.4. **OCCUPANCY.** Lessee shall occupy the Lot as Lessee's principal residence for twelve (12) months of each year of this Lease, unless otherwise agreed by Lessor. Occupancy by children or other immediate family members or dependents of Lessee shall be considered occupancy by Lessee, and all requirements applying to Lessee with regard to occupancy shall also apply to the children, other immediate family members or dependents of Lessee. Relevant factors in determining that Lessee's principal residence is located on the Lot include, but are not limited to:
- 4.4.1. Lessee's place of employment is in Flagstaff, Arizona, or within the boundaries of the Flagstaff Metropolitan Planning Organization;
- 4.4.2. The principal place of abode of Lessee's immediate family members is at the address for the Lot;

- 4.4.3. The address listed on Lessee's federal and state tax returns, driver's license, automobile registration, and voter registration card is the same as that for the Lot;
- 4.4.4. Lessee's mailing address for bills and correspondence is the same as that for the Lot;
- 4.4.5. The location of Lessee's bank accounts is in Flagstaff, Arizona;
- 4.4.6. The location of educational institutions, religious organizations and recreational clubs or organizations with which Lessee is affiliated is in Flagstaff, Arizona, or within the boundaries of the Flagstaff Metropolitan Planning Organization.
- 4.5. **INSPECTION.** Lessor may inspect any portion of the Lot at any reasonable time and in any reasonable manner, upon at least twenty-four (24) hours' oral or written notice to Lessee. In the event of emergency, Lessor may inspect any portion of the Lot without notice, provided the Lessor shall have made reasonable efforts to give advance notice to Lessee.
- 4.6. **LESSEE'S RIGHT TO PEACEFUL ENJOYMENT.** Lessee has the right to undisturbed enjoyment of the Lot, subject to the terms, covenants, conditions, provisions, restrictions or reservations of this Lease.

## **5. Ground Lease Fee**

- 5.1. **GROUND LEASE FEE.** In consideration of the possession, continued use, and occupancy of the Lot, Lessee shall pay to Lessor a monthly ground lease fee (the "Ground Lease Fee") equal to the sum of:
  - 5.1.1. A Land Use Fee determined in accordance with Section 5.4 below, in the initial amount of \$30.
  - 5.1.2. One-twelfth (1/12th) of the estimated annual real estate taxes for the Lot, if any; the estimated amount of any other municipal charges applicable to the ownership or use of the Land, such as water, sewer or snow removal charges; and the annual payment due for special assessments or tax adjustments against the Lot.
- 5.2. **CALCULATION OF GROUND LEASE FEE.** Promptly after the calculation of bills for real property taxes, special assessments and other items which constitute portions of the Ground Lease Fee, the City shall give the Lessee notice of the estimated total amount of the Ground Lease Fee for the ensuing twelve (12) month lease period. If a bill for the twelve (12) month lease period for any item included in the Ground Lease Fee is not available at the time the Lessor gives such notice, the Lessor shall make a projected computation based upon the charge for such item for the current twelve (12) month period, which may be further adjusted by Lessor upon receipt of the bill.
- 5.3. **PAYMENT OF GROUND LEASE FEE.** The Ground Lease Fee shall be payable to Lessor, at the address specified in this Lease as Lessor's address, on the first day of each month for as long as this Lease remains in effect, unless, with Lessor's consent, the Ground Lease Fee is to be escrowed by a Permitted Mortgagee, in which case payment shall be made as specified by that Mortgagee. If the Lease commences on a day other

than the first of the month, a pro-rata portion of the Ground Lease Fee shall be paid for the balance of the month at the time the Lease is executed.

Legal Description

- 5.3.1. Late Payment. All amounts due from the Lessee to Lessor that are not paid by Lessee when due shall be subject to a penalty of ten percent (10%) of the amount due, plus interest at the rate of one (1%) percent per month or fraction of a month from the time due and owing until paid.
- 5.3.2. In the event that any amount of payable Ground Lease Fee remains unpaid when the Improvements are sold and the Lease is terminated or assigned to another party, the amount of payable Ground Lease Fee shall be paid to Lessor out of any proceeds from the sale of the Improvements otherwise due to Lessee at the time of such sale.
- 5.4. CALCULATION OF GROUND LEASE FEE. The Ground Lease Fee specified in section 5.1 above has been calculated as follows. First, an amount approximating the monthly fair rental value of the Lot has been established, current as of the commencement of the Lease term, recognizing that use of the Lot is restricted by some of the provisions of the Lease. Second, the affordability of this monthly amount for the Lessee has been analyzed. Third, if necessary, the amount has been reduced to yield the amount stated in Section 5.1 above, which has been determined to be affordable for Lessee.
- 5.5. REDUCTION, DELAY OR WAIVER OF GROUND LEASE FEE. Lessor may reduce, delay or waive entirely the Ground Lease Fee at any time and from time to time for the purpose of ensuring affordable monthly housing costs for the Lessee. Any such reduction, delay, or waiver must be in writing and signed by Lessor before being effective.
- 5.6. ADJUSTMENT OF GROUND LEASE FEE. The Ground Lease Fee stated in Section 5.1 above, as adjusted in the way provided below, shall be applicable during the term of this Lease. However, in the event that, for any reason, the provisions of Section 10 or Section 11 regarding transfers of the Improvements, or Section 4.4 regarding occupancy, are suspended or invalidated for any period of time, then during that time, the Ground Lease Fee shall be increased to an amount calculated by Lessor to equal the fair rental value of the Lot for use not restricted by the provisions of the suspended portions of the Lease. In such event, Lessor shall give Lessee ninety (90) days' written notice of the amount calculated in this way, and the Ground Lease Fee shall be this amount, upon expiration of the 90-day notice period.
- 5.6.1. In order to keep the Ground Lease Fee reasonably current, the amount specified in Section 5.1 (and the maximum amount specified in the preceding paragraph) shall be recalculated every fifth (5th) year during the term of the Lease. The Ground Lease Fee shall be adjusted annually to reflect increases in the Consumer Price Index - All Urban Consumers, and notice of the new Ground Lease Fee amount shall be sent to Lessee within ten (10) days of Lessor's computation of the new Fee. Any adjustment to the Ground Lease Fee will be effective beginning on the first day of the second month following Lessee's receipt of notice of the adjustment, and the adjusted Ground Lease Fee shall remain in effect until it is next adjusted in accordance with this provision.

## **6. Taxes and Assessments**

### **Exhibit A**

- 6.1. **PAYMENT OF TAXES AND ASSESSMENTS BY LESSOR.** Provided that the Lessee has paid the Lease Fee promptly and fully in accordance with the provisions of this Lease, Lessor shall pay all applicable taxes or assessments, if any, owed for its ownership of the Land with the proceeds generated from the Lease Fee. Lessor shall keep that portion of the Ground Lease Fee designated for taxes or assessments in a tax escrow account. Such tax escrow account may contain funds collected for such purpose from other leases of Lessor. Lessee shall not be entitled to any interest on the payments made. Lessor may from time to time, at its sole discretion, change the number, location or other aspects of the account.
- 6.2. **TAXES AND ASSESSMENTS ON IMPROVEMENTS.** Lessee is responsible for payment of all taxes and assessments, no matter how designated, that relate to the Improvements ("Taxes"). Lessee shall be permitted to pay directly all Taxes, as long as Lessee is not in default under the Lease.
- 6.3. **LESSEE'S RIGHT TO CONTEST.** Lessee shall have the right to contest the amount or validity of any taxes relating to the Improvements and Lot. Lessor shall, upon written request by Lessee, join in any such proceedings if Lessee reasonably determines that it is necessary or convenient for Lessor to do so. All other costs and expenses of such proceedings shall be paid by Lessee. Notwithstanding the foregoing, Taxes or assessments against or including the Lot shall be contested only with the concurrence of Lessor.
- 6.4. **PAYMENTS IN EVENT OF DELINQUENCY.** In the event that Lessee fails to pay the taxes or other charges specified in Section 6.2 above, Lessor may increase Lessee's Ground Lease Fee in an amount that will offset the cost of any delinquent and current Taxes or other charges. Upon collecting any such amount, Lessor shall pay the amount collected to satisfy the Taxes or other charges in a timely manner.
- 6.5. **PROOF OF COMPLIANCE.** Concurrently with the payment of any taxes, assessments, and charges required or permitted by the provisions of this Lease, each party shall furnish evidence satisfactory to the other documenting the payment. A photocopy of a receipt for such charges showing payment prior to the due date shall be the usual method of furnishing such evidence.

## **7. Improvements**

- 7.1. **OWNERSHIP.** It is agreed that all buildings, structures, fixtures, and other Improvements purchased by the Lessee or constructed or placed by the Lessee on any part of the Lot at any time during the term of this Lease (the "Improvements") shall be the property of the Lessee. Title to such Improvements shall be and remain in the Lessee. However, Lessee's exercise of the rights of ownership is subject to the provisions of this Lease, including but not limited to provisions regarding the disposition of Improvements by the Lessee and the Lessor's option to purchase the Improvements. In addition, Lessee shall not sever or move the Improvements from the Lot.
- 7.2. **PURCHASE OF IMPROVEMENTS BY LESSEE.** Lessee is simultaneously purchasing the Improvements now located on the Lot.

- 7.3. CONSTRUCTION AND ALTERATION. Any construction in connection with an existing or new Improvement is subject to the following conditions:
- Legal Description
- 7.3.1. All costs shall be borne and paid for by the Lessee;
- 7.3.2. All construction shall be performed in a workmanlike manner and shall comply with all applicable laws and regulations;
- 7.3.3. All construction shall be consistent with the permitted uses set forth in Section 4;
- 7.3.4. The exterior (including height) of such Improvements shall not be increased or expanded, and new Improvements which affect the affordability of the Improvements shall not be constructed without the prior written consent of Lessor, who, however, shall not unreasonably withhold such consent; and
- 7.3.5. Lessee shall furnish to Lessor a copy of any plans and all building permits for such construction prior to commencing construction.
- 7.4. PROHIBITION OF LIENS. No lien of any type shall attach to the Lessor's title to the Lot or to Lessor's interest in the Lot or to any other property owned by the Lessor. Lessee shall not permit any statutory or similar lien to be filed against the Lot, the Improvements, or any interest of Lessor or Lessee that remains more than sixty (60) days after it has been filed. Lessee shall cause any such lien to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction, or as otherwise permitted by law. If Lessee fails to cause such lien to be discharged within the 60-day period, then, in addition to any other right or remedy, Lessor may, but shall not be obligated to, discharge the lien by paying the amount in question. Lessee may, at Lessee's expense, contest the validity of any such asserted lien, provided Lessee has furnished a bond in an amount sufficient to release the Lot from such lien. Any amounts paid by Lessor to discharge such liens shall be deemed to be an additional Ground Lease Fee payable by Lessee upon demand.
- 7.5. MAINTENANCE AND SERVICES. Lessee shall, at Lessee's sole expense, maintain the Lot and all Improvements as required by this Lease and in accordance with all applicable laws, rules, ordinances, orders and regulations of all governmental agencies and entities having jurisdiction and all insurance companies insuring all or any part of the Lot or Improvements. Lessor shall not be required to furnish any services or facilities, including but not limited to heat, electricity, air conditioning, or water, or to make any repairs to the Lot or Improvements, and Lessee hereby assumes the sole responsibility for furnishing all services or facilities.
- 7.6. DISPOSITION OF IMPROVEMENTS UPON EXPIRATION OF LEASE TERM. Upon the expiration of the term of this Lease as such term may be extended or sooner terminated in accordance with this Lease, Lessee shall surrender the Improvements together with the Lot to the Lessor. Lessee shall simultaneously convey title to the Improvements to Lessor, and Lessor shall promptly pay to Lessee as consideration for the Improvements an amount equal to Lessor's Purchase Option Price calculated in accordance with Section 10 below, as of the time of such conveyance of title, less the total amount of any unpaid Ground Lease Fee including any charges that may have been added to the Ground Lease Fee in accordance with this Lease.

## 8. **Financing**

### **Exhibit A**

- 8.1. **PERMITTED MORTGAGE.** Lessee may mortgage the Land only with the written consent of Lessor. Not less than thirty (30) days prior to the date on which Lessee (or a prospective Lessee who has contracted to construct or purchase the Improvements) requests Lessor's consent to a mortgage to be effective, Lessee (or prospective Lessee) shall furnish to Lessor copies of every document to be executed in connection with the transaction represented by such mortgage. Lessor may choose to consent to any mortgage, and in so doing shall designate such mortgage as a "Permitted Mortgage." However, Lessor shall be required to consent to a mortgage only if, at the time such copies of documents are submitted and at the time proposed by Lessee (or prospective Lessee) for the execution of such documents, no default is then outstanding; and if the mortgage so submitted is a Standard Permitted Mortgage as defined in the attached Exhibit "F", "PERMITTED MORTGAGES." Lessee shall pay to Lessor at Lessor's option, as additional Ground Lease Fee, all fees, costs, and expenses, including, without limitation, reasonable attorneys' fees, incurred by Lessor in connection with any Permitted Mortgage.
- 8.2. **RIGHTS OF PERMITTED MORTGAGEE.** Any holder of a Permitted Mortgage ("Permitted Mortgagee") shall without requirement of consent by the Lessor have the rights identified and defined in the attached Exhibit F, "PERMITTED MORTGAGES."
- 8.3. **REMOVAL OF CERTAIN PROVISIONS PURSUANT TO FORECLOSURE.** In the event of foreclosure sale by a Permitted Mortgagee or the delivery of a deed to a Permitted Mortgagee in lieu of foreclosure in accordance with the provisions of the Lease, at the election of the Permitted Mortgagee the provisions of Section 10 shall be deleted and thereupon shall be of no further force or effect as to only so much of the Security so foreclosed upon or transferred.
- 8.4. **LESSOR'S RIGHT TO PROCEEDS IN EXCESS OF PURCHASE OPTION PRICE.** The parties recognize that it would be contrary to the fundamental concept of this agreement and an incentive to abuse Lessee's authorization to encumber its leasehold interest with a Permitted Mortgage if Lessee could realize more than the Purchase Option Price as the result of any foreclosure of any mortgage. Accordingly, Lessee hereby irrevocably assigns to Lessor any and all net proceeds of sale of the Improvements remaining after payment of costs of foreclosure and satisfaction of the lien of any Permitted Mortgage which would otherwise have been payable to Lessee, to the extent such net proceeds exceed the net proceeds that Lessee would have received had the property been sold for the Purchase Option Price established in Section 10 of this Lease, and authorizes and instructs the Permitted Mortgagee or any party conducting any sale to pay the amount of said excess proceeds directly to Lessor. In the event that, for any reason, such excess proceeds are paid to Lessee, Lessee hereby agrees to promptly pay the amount of such excess proceeds to Lessor.
- 8.5. **AMENDMENTS SUBJECT TO APPROVAL BY PERMITTED MORTGAGEE.** Any amendments to this Lease shall be subject to the written approval of Permitted Mortgagee, which approval shall not be unreasonably withheld or delayed. The passage of thirty (30) days after submittal to Permitted Mortgagee of a proposed amendment without approval or disapproval by Permitted Mortgagee shall be deemed approval thereof.

9. **Liability, Insurance, Damage and Destruction, Eminent Domain**

**Exhibit A**

- 9.1. **LESSEE'S LIABILITY.** Lessee assumes sole responsibility and liability to all persons and authorities related to its possession, occupancy, and use of the Lot from the date of this Lease.
- 9.2. **INDEMNIFICATION OF LESSOR.** Lessee shall defend, indemnify, and hold Lessor harmless against all liability and claims of liability for injury or damage to person or property from any cause on or about the Lot. Lessee waives all claims against Lessor for such injury or damage. However, Lessor shall remain liable (and Lessee shall not indemnify and defend Lessor against such liability or waive such claims of liability) for injury or damage due to the grossly negligent or intentional acts or omissions of Lessor or Lessor's agents or employees.
- 9.3. **PAYMENT BY LESSOR.** In the event the Lessor shall be required to pay any sum that is the Lessee's responsibility or liability, the Lessee shall reimburse the Lessor for such payment and for reasonable expenses caused thereby.
- 9.4. **INSURANCE.**
- 9.4.1. **Casualty Insurance.** Lessee shall, at Lessee's sole expense, keep all Improvements continuously insured against loss or damage by fire and the extended coverage hazards for the full replacement value of such Improvements.
- 9.4.2. **Liability Insurance.** Lessee shall, at Lessee's sole expense, maintain continuously in effect liability insurance covering the Lot and Improvements in the amounts of not less than one hundred thousand dollars (\$100,000) for injury to or death of any one person; and two hundred thousand dollars (\$200,000) for injury to or death of any number of persons in one occurrence; and one hundred thousand dollars (\$100,000) for property damage. The dollar amounts of this coverage shall be adjusted at two-year intervals, beginning on the date this Lease is signed, or upon Lessor's demand given not more often than annually, upon 30 days' notice to Lessee. This adjustment shall be equal to the percentage of change (positive or negative), over the period in question, of the Consumer Price Index for urban wage earners and clerical workers for the urban area in which the Lot is located, or, if none, for urban areas the size of Flagstaff, or such other index as reasonably measures adjustments in coverage amounts for the applicable type of insurance. Such index is maintained by the Office of Prices and Living Conditions of the Bureau of Labor Statistics, of the U.S. Department of Labor. Such insurance shall specifically insure Lessee against all liability assumed under this Lease, as well as all liability imposed by law, and shall also insure Lessor as an additional insured so as to create the same liability on the part of insurer as though separate policies had been written for Lessor and Lessee.
- 9.4.3. **Certificates of Insurance.** Lessee shall provide Lessor with a certificate of insurance for all policies and policy renewals. Original policies (or certificates) shall be delivered to the Permitted Mortgagee. All casualty insurance policies shall provide for any losses to be payable to any Permitted Mortgagee, as its interests may appear, pursuant to a standard mortgagee clause or endorsement. Lessee and Lessor irrevocably authorize and direct the Permitted Mortgagee to

accept and hold all casualty insurance proceeds for application in accordance with the provisions of the Lease and, to the extent not inconsistent with the requirements of this Lease, with the provisions of the Permitted Mortgage. All policies shall also contain endorsements providing that they shall not be cancelled, reduced in amount or coverage or otherwise modified by the insurance carrier involved without at least thirty (30) days' prior written notice to Lessor. Lessor shall be entitled to participate in the settlement or adjustment of any losses covered by such policies of insurance. Any Permitted Mortgagee shall have the right to participate in any adjustment or settlement of any losses for the purpose of protecting its rights under this Lease. No loss shall be adjusted without the prior written consent of any Permitted Mortgage.

- 9.5. DAMAGE OR DESTRUCTION. Except as in this Lease, in the event of fire or other damage to the Improvements, Lessee shall take all steps necessary to ensure the repair of such damage and the restoration of the Improvements to their condition immediately prior to the damage. All such repairs and restoration shall be completed as promptly as possible. Lessee shall also promptly take all steps necessary to ensure that the Lot is safe and that the damaged Improvements do not constitute a danger to persons or property.

9.5.1. If Lessee, using reasonable judgment and relying on professional estimates, determines that full repair and restoration is physically impossible, or that the available insurance proceeds will pay for less than eighty percent (80%) of the cost of repair and restoration (provided Lessee has fulfilled all the hazard insurance requirements set forth in Section 9.4 above), then Lessee may terminate this Lease by written notice to Lessor given not later than sixty (60) days after the event that caused the damage. However, such termination shall not be effective until sixty (60) days after the date upon which the notice is received by Lessor. During this 60-day period Lessor may seek an adjustment from the insurer so as to increase the available insurance proceeds to an amount covering at least 80 percent of the cost of repair and restoration. If successful in securing such adjustment, Lessor may render Lessee's termination notice null and void by written notice to Lessee within such 60-day period. If Lessor fails to nullify the termination notice in this way, then this Lease shall terminate at the expiration of the 60-day period, and any insurance proceeds payable to Lessee on account of such damage shall be paid as provided below:

9.5.1.1.First, to the expenses of collecting the proceeds;

9.5.1.2.Second, to any Permitted Mortgagee(s) so that the paramount lien is paid in full, or to the extent of available proceeds, before any amount is paid to subsequent liens;

9.5.1.3.Third, to the expenses of enclosing or razing the remaining Improvements and clearing debris from the Lot;

9.5.1.4.Fourth, to Lessee, up to the Purchase Option Price as of the day prior to the loss; and

9.5.1.5.Fifth, the balance, if any, to Lessor.



9.6. EMINENT DOMAIN OR PUBLIC DEDICATION.

**Exhibit A**

- 9.6.1. In the event of a taking of the Lot by the federal or state governmental authorities, either in its entirety or to such extent that the Improvements are lost or damaged beyond repair, by reason of eminent domain or other action of public authority prior to the expiration of this Lease, the Lease shall terminate as of the date Lessee is required to give up possession of the Lot or Improvements, and the entire amount of any award(s) paid shall be allocated as described in Section 9.5 above for insurance proceeds.
- 9.6.2. Any and all proceedings brought by a party in connection with any damages as a result of any taking referred to in this Section shall be conducted at the sole expense of such party. If any provision of law requires that such proceedings be brought by or in the name of any owner or lessee of the premises, such party shall join in such proceedings or permit the same to be brought in its name. Each party agrees to do all acts and to execute all documents that may be required to enable the other to maintain such proceedings. If the party required to join in the proceedings incurs any cost or expense in doing so, such party shall be entitled to reasonable reimbursement and this entitlement shall constitute a first charge against any award.
- 9.7. RELOCATION OF LESSEE. In the event of a termination of this Lease as a result of damage, destruction or taking, Lessor shall take reasonable steps to grant Lessee a leasehold interest, similar to the interest created by this Lease, in another tract that it owns, if such other tract can reasonably be made available. In accepting such a leasehold interest, Lessee agrees to contribute any proceeds or award received by Lessee to purchase or develop Improvements on such tract. Lessor's failure to supply such a leasehold interest shall not give rise to any cause of action by Lessee against Lessor.

10. **Transfer, Sale, or Disposition of Improvements**

- 10.1. INTENT. It is the understanding of the parties that the terms of this Lease, and in particular of this Section 10, are intended to permit the free alienation of Lessee's interest in the Lot and Improvements, subject to certain limitations on price outlined in this Article, which are designed to implement the public purposes set forth in the Recitals to this Lease and in Lessee's Letter of Acknowledgment by conserving Lessor's subsidy; to limit the inflationary effect of any appreciation in the value of the Improvements; and to preserve the affordability of the Improvements for low or moderate income households and expand access to homeownership opportunities for such households.
- 10.2. TRANSFERS TO INCOME-QUALIFIED PERSONS. Lessee may transfer its interest in the Land or the Improvements only to Lessor or an Income-Qualified Person as defined below or otherwise only as explicitly permitted by the provisions of this Section 10. All such transfers shall be subject to Lessor's review and purchase option rights set forth in this Section 10. Any purported transfer done without following the procedures set forth below, except in the case of a transfer to a Permitted Mortgagee in lieu of foreclosure, shall be null and void.
- 10.2.1. "Income-Qualified Person" shall mean a person or group of persons whose household income does not exceed eighty percent (80%) of the median household

income for the applicable Standard Metropolitan Statistical Area or County as calculated and adjusted for household size from time to time by the U.S. Department of Housing and Urban Development (HUD) or any successor.

Lease Parcel

- 10.3. **TRANSFER TO LESSEE'S HEIRS.** Upon receipt of notice from the Personal Representative of the decedent's estate, given within ninety (90) days of the death of Lessee (or the last surviving co-owner of the Improvements) Lessor shall, unless for good cause shown, consent to a transfer of the Improvements and an assumption of this Lease to, and an assumption by one or more of the following possible heirs of Lessee: the spouse of the Lessee; the child or children of the Lessee; or member(s) of the Lessee's household who have resided with Lessee upon the Lot for at least one year immediately prior to Lessee's death. A Letter of Stipulation and a Letter of Acknowledgment of legal counsel (similar to those described in Section 1 of this Lease), setting forth the heir's review, understanding and acceptance of the terms of the Lease, must be submitted by the heir(s) to Lessor to be attached to the Lease when it is transferred to the heir(s).

10.3.1. Any other heirs, legatees or devisees of Lessee must, in addition to submitting Letters of Stipulation and Acknowledgment as provided above, demonstrate to Lessor's reasonable satisfaction that they are Income-qualified Persons as defined above, or, if unable to do so, shall not be entitled to possession of the Lot but must transfer the Lot in accordance with the provisions of this Section 10.

- 10.4. **LESSOR'S OPTION TO PURCHASE.** In the event that Lessee wishes to assign its interest in the Lot and sell the Improvements, Lessee shall notify Lessor, in writing, of such wish (the "Intent-To-Sell Notice"). Such Notice shall include a statement as to whether Lessee wishes to recommend a prospective buyer as of the date of the Notice.

- 10.5. **APPRAISAL.** No later than ten (10) days after Lessor's receipt of Lessee's Intent-To-Sell Notice, Lessor shall commission and pay the cost of a market valuation of the Lot and the Improvements (the "Appraisal"). The Appraisal shall be conducted by analysis and comparison of comparable properties as though title to Lot and Improvements were held in fee simple absolute, disregarding the restrictions of this Lease on the use of the Lot and the transfer of the Improvements. The Appraisal shall state the values contributed by the Lot and by the Improvements as separate amounts. Copies of the Appraisal are to be provided to both Lessor and Lessee.

- 10.6. **LESSOR'S PURCHASE OPTION.** Upon receipt of an Intent to Sell Notice from Lessee, Lessor shall have the option to purchase the Improvements (the "Purchase Option") at the Purchase Option Price ("POP") calculated as set forth below. The Purchase Option is designed to further the purpose of preserving the affordability of the Improvements for succeeding Income-qualified Persons while taking fair account of the investment by the Lessee.

10.6.1. The POP shall be equal to the lesser of the current appraised value of the Improvements, as determined below, or the sum of Lessee's Purchase Price as stipulated below, plus twenty-five percent (25%) of the increase in market value of the Improvements, if any, without regard to the market value of the Lot calculated as described below:

- 10.6.1.1. The parties agree that the Lessee's Purchase Price for the Improvements existing on the Lot as of the commencement of the term of this Lease is _____. For purposes of calculating the POP, the increase in market value of the Improvements shall be determined by subtracting the amount of the appraised value of the Improvements at the time of the Lessee's purchase, which amount is _____, as documented by the appraiser's report attached as Exhibit "G," from the amount of the appraised value of the Improvements at the time of the Lessee's Intent to Sell Notice, to be determined as described in Section 10.6.1.2.
- 10.6.1.2. After Lessee gives an Intent to Sell Notice to Lessor, Lessor shall obtain, at Lessor's expense, the Appraisal of the Improvements by a qualified appraiser. Within ten (10) days of receipt of the Appraisal from Lessor, Lessee shall either accept the Appraisal as accurately representing the market value of the Improvements for purposes of calculating the POP, or commission a second appraisal by a qualified appraiser, at Lessee's expense, and submit a copy of this second appraiser's report to the Lessor within forty-five (45) days of the giving of Intent to Sell Notice. If a second appraisal is commissioned and results in an appraised value which is not less than 90% nor more than 110% of the amount of the first appraisal, the amount to be used in determining the increase in market value of the Improvements shall be the average of the two appraised values. If the amount of the second appraisal is more than 10% greater or less than the first, the two appraisers shall then select a third qualified appraiser, who shall choose one of the two prior appraisal amounts as more closely representing the market value of the Improvements as of the date of the Notice of Intent to Sell. The cost of the third appraiser shall be shared equally by the Lessor and the Lessee.
- 10.7. LESSOR'S POWER OF ATTORNEY TO CONDUCT SALE. In the event Lessor does not exercise its option and complete the purchase of the Improvements as set forth above, and Lessee is not then residing in the Improvements and continues to hold the Improvements out for sale but is unable to locate a buyer and execute a binding purchase and sale agreement within one (1) year of the giving of the Intent to Sell Notice, Lessee hereby appoints Lessor its attorney in fact to seek a buyer, negotiate a reasonable price that furthers the goals set forth in this Lease, sell the property, and distribute proceeds of sale, minus Lessor's costs of sale and reletting and any other sums owed Lessor by Lessee.
- 10.8. RIGHT OF FIRST REFUSAL IN LIEU OF OPTION. If the provisions of the option to purchase shall, for any reason become unenforceable, Lessor shall nevertheless have a right of first refusal to purchase the Improvements at the highest documented bona fide purchase price offer made to Lessee. Such right shall be as specified in Exhibit "C" of this Lease. Any sale or transfer contrary to this Section, when applicable, shall be null and void.
- 10.9. LEASE TERMINATION ON PURCHASE. This Lease shall terminate upon conveyance of the Improvements to Lessor.

## 11. Assignment and Sublease

### Exhibit A

11.1. LESSOR'S APPROVAL REQUIRED. Except as otherwise provided in Section 8 (including Exhibit "F", "PERMITTED MORTGAGES") and Section 10, Lessee shall not assign, sublease, sell, or otherwise convey any of Lessee's rights under this Lease without the prior written consent of the Lessor. Lessor will apply written guidelines which it has developed to any request to assign, sublease, sell, or otherwise convey any of Lessee's rights or obligations under this Lease, but Lessee agrees that Lessor shall have broad and full discretion to withhold such consent in order to further the mutual purposes and goals set forth in this Lease. If permission is granted, any assignment or sublease shall be subject to the following conditions.

11.1.1. Any such assignment or sublease shall be subject to all the terms of this Lease;

11.1.2. In the case of a sublease, the rental or occupancy fee charged the sublessee shall not be more than that amount charged the Lessee by the Lessor, plus a pass-through of actual costs to the Lessee for the Improvements, such as debt service costs under a Permitted Mortgage);

11.1.3. The written consent of the Permitted Mortgagee, if any, must be obtained: and

11.1.4. In the case of an assignment, the total consideration for such assignment and the related sale or transfer of the Improvements shall not exceed the Purchase Option Price as calculated in accordance with Section 10 above.

11.2. PERMITTED MORTGAGE NOT AN ASSIGNMENT. The execution and delivery of any Permitted Mortgage shall not be deemed to constitute an assignment or transfer of this Lease, nor shall any Permitted Mortgagee be deemed an assignee or transferee of this Lease so as to require the Permitted Mortgagee to assume responsibility for the performance of any agreements on the part of the Lessee to be performed under the Lease.

11.3. ASSIGNMENT BY LESSOR. Any assignment of Lessor's interest shall be governed by the provisions of Section 3 of this Lease.

## 12. Default

12.1. EVENTS OF DEFAULT. It shall be an "Event of Default" if:

12.1.1. Lessee fails to pay the Ground Lease Fee or other charges required by the terms of this Lease and such failure is not cured by Lessee or a Permitted Mortgagee within thirty (30) days after notice of such failure is given by Lessor to Lessee and Permitted Mortgagee. However, if Lessee shall make a good faith partial payment of at least two thirds (2/3) of the amount owed during such initial 30-day period, then such period shall be extended one additional 30-day period.

12.1.2. Lessee fails to abide by any other material term or condition in this Lease, and such failure is not cured by Lessee or a Permitted Mortgagee within sixty (60) days after notice of such failure is given by Lessor to Lessee and Permitted Mortgagee. However, in the case where the Lessee or Permitted Mortgagee has commenced to cure such default within such 60-day period and is continuing such

cure with all due diligence but cannot by the exercise of due diligence cure such default within such period, such period shall be extended for such additional period as may be reasonably required under the circumstances to complete such cure.

12.1.3. The estate hereby created is taken on execution or by other process of law, or if Lessee is judicially declared bankrupt or insolvent according to law, or if any assignment is made of the property of Lessee for the benefit of creditors, or if a receiver, trustee in involuntary bankruptcy or other similar officer is appointed to take charge of any substantial part of Lessee's property by a court of competent jurisdiction, or if a petition is filed for the reorganization of Lessee under any provisions of the Bankruptcy Act now or hereafter enacted, or if Lessee files a petition for such reorganization, or for arrangements under any provision of the Bankruptcy Act now or hereafter enacted and providing a plan for a debtor to settle, satisfy or extend the time for payment of debts.

12.2. **TERMINATION.** In the case of any of the events of default described above, Lessor may, subject to the rights of any Permitted Mortgagee to cure defaults or extinguish the Lessee's interest in the Lease, immediately or at any time thereafter while the condition of default exists, terminate this Lease and initiate summary proceedings against Lessee. Pursuant to such proceedings, without demand or notice, Lessor may enter any part of the Land and repossess the entire Land, and expel Lessee and those claiming rights through Lessee and remove their effects without being guilty of any manner of trespass, and without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant. If this Lease is terminated by Lessor, or if Lessor reenters the Land pursuant to an Event of Default, the Lessee agrees to pay and be liable for any unpaid Ground Lease Fee, damages which may be due or sustained prior to or in connection with such termination or reentry, and all reasonable costs, fees and expenses (including, without limitation, reasonable attorneys' fees) incurred by Lessor in pursuit of its remedies under this Lease.

12.2.1. Any Permitted Mortgagee shall have the right, but not the obligation, to cure any default on the part of the Lessee as well as the right to enter upon and take possession of the Lot and Improvements if necessary to do so to cure any default.

12.2.2. If Lessor elects to terminate the Lease, then the Permitted Mortgagee shall have the right (subject to Section 8 above) to postpone and extend the specified date for the termination of the Lease for a period sufficient to enable the Permitted Mortgagee or its designee to acquire Lessee's interest in the Land by foreclosure of its mortgage or otherwise.

12.2.3. Notwithstanding any provision of Section 12.1 to the contrary, if any Permitted Mortgagee is making the monetary payments required by this Lease or is diligently proceeding to cure any other default or to foreclose the Permitted Mortgage or otherwise obtain possession of the leasehold estate, any event of default shall not operate, or permit Lessor, to terminate this Lease.

12.3. **DEFAULT BY LESSOR.** Lessor shall in no event be in default in the performance of any of its obligations under the Lease unless and until Lessor has failed to perform such obligations within sixty (60) days, or such additional time as is reasonably required to

correct any default, after notice by Lessee to Lessor properly specifying Lessor's failure to perform any such obligation.

**Legal Description**

**13. Mediation**

13.1. The parties recognize the need to resolve disputes in an expeditious, organized and fair manner. The mediation procedure below reflects the parties' understanding that speedy dispute resolution is essential to occupancy and use of the Land. Should any dispute arise between Lessor and Lessee concerning their respective rights and duties under the terms of this Ground Lease Agreement which cannot be resolved in normal interaction, the following mediation procedures shall be used, provided, however, that any dispute involving the legal validity of this Ground Lease Agreement or any portion of the Agreement is specifically excluded from these provisions regarding alternative dispute resolution. Any such dispute shall be subject to judicial resolution, rather than subject to mediation.

13.2. **MEDIATION.** Lessor or Lessee may notify the other by written notice of the desire to enter into mediation of a dispute described in the written notice. Within fifteen (15) days of receipt of the written notice by the other party, Lessor and Lessee will mutually agree upon a disinterested person to mediate their dispute. The mediator shall be a person who has served as a mediator in the Alternative Dispute Resolution Program of the Coconino County Superior Court, or such other experienced mediator as the parties may agree upon. Efforts to achieve a resolution through mediation shall end after the mediator determines that, despite good faith efforts, the parties are unable to resolve their dispute. In any event, either Lessor or Lessee shall be free to resort litigation if the dispute has not been resolved within sixty (60) days of the selection of a mediator or, if the parties are unable to agree upon a mediator, within fifteen (15) days of the receipt of the written notice of a request to mediate. Neither Lessor nor Lessee may litigate, except consistent with Section 13.1, without first utilizing the mediation process in accordance with this Section.

**14. General Provisions**

14.1. **NOTICES.** Whenever this Lease requires either party to give notice to the other, the notice shall be given in writing and delivered in person or mailed, by certified or registered mail, return receipt requested, to the party at the address set forth below, or such other address designated by like written notice:

If to Lessor:

Housing Section  
City of Flagstaff  
211 W. Aspen Avenue  
Flagstaff, AZ 86001

If to Lessee:

_____  
_____  
_____

Copy to:

City Attorney  
City of Flagstaff  
211 W. Aspen Avenue

All notices, demands and requests shall be effective upon being deposited in the United States Mail or, in the case of personal delivery, upon actual receipt.

- 14.2 **NO BROKERAGE.** Lessee warrants that it has not dealt with any broker other than _____ in connection with the consummation of this Lease, and in the event any claim is made against Lessor relative to dealings with brokers other than _____, Lessee shall defend the claim against Lessor with counsel of Lessor's selection and save harmless and indemnify Lessor on account of loss, cost or damage which may arise by reason of any such claim.
- 14.3 **INVALID PROVISIONS.** If any part of this Lease is unenforceable or invalid, such material shall be read out of this Lease and shall not affect the validity of any other part of this Lease or give rise to any cause of action of Lessee or Lessor against the other, and the remainder of this Lease shall be valid and enforced to the fullest extent permitted by law.
- 14.4 **RIGHT OF FIRST REFUSAL IN LIEU OF OPTION.** If the provisions of the purchase option set forth in Section 10 of this Lease shall, for any reason, become unenforceable, Lessor shall nevertheless have a right of first refusal to purchase the Improvements at the highest documented bona fide purchase price offer made to Lessee. Such right shall be as specified in the Exhibit "C" entitled FIRST REFUSAL. Any sale or transfer contrary to this Section, when applicable, shall be null and void.
- 14.5 **WAIVER.** The waiver by Lessor at any given time of any term or condition of this Lease, or the failure of Lessor to take action with respect to any breach of any such term or condition, shall not be deemed to be a waiver of such term or condition with regard to any subsequent breach of such term or condition, or of any other term or condition of the Lease. Lessor may grant waivers in the terms of this Lease, but such waivers must be in writing and signed by Lessor before being effective.
- 14.5.1 The subsequent acceptance of Ground Lease Fee payments by Lessor shall not be deemed to be a waiver of any preceding breach by Lessee of any term or condition of this Lease, other than the failure of the Lessee to pay the particular Ground Lease Fee so accepted, regardless of Lessor's knowledge of such preceding breach at the time of acceptance of such Ground Lease Fee payment.
- 14.6 **LESSOR'S RIGHT TO PROSECUTE OR DEFEND.** Lessor shall have the right, but shall be under no obligation, to prosecute or defend, in its own or the Lessee's name, any actions or proceedings appropriate to the protection of its title to, and Lessee's interest in, the Lot. Whenever requested by Lessor, Lessee shall give Lessor all reasonable aid in any such action or proceeding.
- 14.7 **CONSTRUCTION.** Whenever in this Lease a pronoun is used it shall be construed to represent either the singular or the plural, masculine or feminine, as the case shall demand.

- 14.8 CAPTIONS AND TABLE OF CONTENTS. The captions and table of contents appearing in this Lease are for convenience only, and are not a part of this Lease and do not in any way limit or amplify the terms or conditions of this Lease.
- 14.9 PARTIES BOUND. This Lease sets forth the entire agreement between Lessor and Lessee with respect to the leasing of the Lot; it is binding upon and inures to the benefit of these parties and, in accordance with the provisions of this Lease, their respective successors in interest. This Lease may be altered or amended only by written notice executed by Lessor and Lessee or their legal representatives or, in accordance with the provisions of this Lease, their successors in interest.
- 14.10 GOVERNING LAW. This Lease shall be interpreted in accordance with and governed by the laws of the State of Arizona. The language in all parts of this Lease shall be, in all cases, construed according to its fair meaning and not strictly for or against Lessor or Lessee.
- 14.11 COMPLIANCE WITH ALL LAWS. Lessee shall not use the Land or permit anything to be done in or about the Lot which will in any way conflict with any law, statute, ordinance or governmental rule or regulation now in force or which may hereafter be enacted or promulgated. Lessee shall, at its sole cost and expense, promptly comply with all laws, statutes, ordinances and governmental rules, regulations or requirements now in force or which may hereafter be in force.
- 14.12 RECORDING. The parties agree, as an alternative to the recordation of this Lease, to execute a Memorandum of Lease in form recordable and complying with applicable law and reasonably satisfactory to Lessor's attorneys. In no event shall such document set forth the rent or other charges payable by Lessee under this Lease; and any such document shall expressly state that it is executed pursuant to the provisions contained in this Lease, and is not intended to vary the terms and conditions of this Lease.

IN WITNESS WHEREOF, the parties have executed this lease at _____ on the day and year first above written.

**LESSOR**

**LESSEE**

_____, Mayor

_____

Attest:

_____  
Witness

_____  
City Clerk

Approved as to form:

_____



---

City Attorney

Lease Parcel

[*Jurat for CITY officer signing ground lease.*]

STATE OF ARIZONA

County of Coconino

Exhibit A  
Legal Description  
Lease Parcel

On this _____ day of _____, 20__, personally appeared before me  
_____ who acknowledged himself/herself to be the  
_____ and being  
authorized so to do, executed the foregoing instrument in the capacity therein stated and for the purposes  
therein contained, by signing the name of the Lessor himself/herself as such officer.

_____  
Notary Public

My Commission Expires:_____

[*Jurat for Lessee.*]

STATE OF ARIZONA

Coconino County

The foregoing instrument was acknowledged before me this ____ day of _____,

20__ by _____, the Lessee in the foregoing Ground Lease.

_____  
Notary Public

My Commission Expires:_____

Exhibit "B"  
LETTERS OF STIPULATION AND ACKNOWLEDGMENT

Letter of Stipulation

To: City of Flagstaff (the "CITY")

Date: _____

This letter is given to the CITY to become an exhibit to a Lease between the CITY and me. I will be leasing a parcel of land from the CITY and will be buying or building separately a home that sits or will be built on that parcel of land. I will therefore become what is described here as a "Land Trust Program homeowner."

My legal counsel, _____, has explained to me the terms and conditions of the Lease and other legal documents that are part of this transaction. I understand the way these terms and conditions will affect my rights as a Land Trust Program homeowner, now and in the future.

In particular I understand and agree with the following points.

§ One of the goals of the CITY is to keep Land Trust Program homes affordable for lower-income households from one homeowner to the next. I support this goal as a Land Trust Program homeowner.

§ The terms and conditions of my Lease will keep my home affordable for future "income-qualified persons" (as defined in the lease). If and when I want to sell my home, the lease requires that I sell it either to the CITY or to another income-qualified person. The terms and conditions of the lease also limit the price for which I can sell the home, in order to keep it affordable for such income-qualified persons.

§ It is also a goal of the CITY to promote resident ownership of Land Trust Program homes. For this reason, my Lease requires that if my family and I move out of our home permanently, we must sell it. We cannot continue to own it as absentee owners.

§ I understand that I can leave my home to my child or children or other members of my household and that, after my death, they can own the home for as long as they want to live in it and abide by the terms of the Lease, or they can sell it on the terms permitted by the Lease.

§ As a Land Trust Program homeowner, it is my desire to see the terms of the Lease and related documents honored. I consider these terms fair to me and others.

Sincerely,

## Letter of Acknowledgment

I, _____, have been independently employed by _____ (hereinafter the "Client") who intends to purchase a house and other improvements on land to be leased from the City of Flagstaff through its Land Trust Program_(the "CITY"). The house and land are located at _____.

In connection with the contemplated purchase of the house and other improvements and leasing of the land, I reviewed with the Client the following documents relating to the transaction:

- a. this Letter of Acknowledgment and a Letter of Stipulation from the Client
- b. a proposed Deed conveying the house and other improvements to the Client
- c. a proposed Ground Lease conveying a leasehold interest in the "Land" to the Client
- d. other written materials provided by the CITY.

The Client has received full and complete information and advice regarding this conveyance and the foregoing documents. My advice and review has been given to reasonably inform the Client of the present and foreseeable risks and legal consequences of the contemplated transaction.

The Client is entering the aforesaid transaction in reliance on his or her own judgment and upon his or her investigation of the facts. The full and complete advice and information provided by me was an integral element of such investigation.

Name _____ Date _____

Title _____

Firm/Address _____

Exhibit "C"  
FIRST REFUSAL

Whenever any party under the Ground Lease shall have a right of first refusal as to certain property, the following procedures shall apply. If the owner of the property offering it for sale ("Offering Party") shall within the term of the Ground Lease receive a bona fide, third-party offer to purchase the property that such Offering Party is willing to accept, the holder of the right of first refusal (the "Holder") shall have the following rights:

1. Offering Party shall give written notice of such offer (the "Notice of Offer") to Holder setting forth (a) the name and address of the prospective purchaser of the property, (b) the purchase price offered by the prospective purchaser and (c) all other terms and conditions of the sale. Holder shall have a period of forty-five (45) days after the receipt of the Notice of Offer (the "Election Period") within which to exercise the right of first refusal by giving notice of intent to purchase the property (the "Notice of Intent to Purchase") for the same price and on the same terms and conditions set forth in the Notice of Offer. Such Notice of Intent to Purchase shall be given in writing to the Offering Party within the Election Period.
2. If Holder exercises the right to purchase the property, such purchase shall be completed within sixty (60) days after the Notice of Intent to Purchase is given by Holder (or if the Notice of Offer shall specify a later date for closing, such date) by performance of the terms and conditions of the Notice of Offer, including payment of the purchase price provided therein.
3. Should Holder fail to exercise the right of first refusal within the Election Period, then the Offering Party shall have the right (subject to any other applicable restrictions in the Ground Lease) to go forward with the sale which the Offering Party desires to accept, and to sell the property within one (1) year following the expiration of the Election Period on terms and conditions which are not materially more favorable to the purchaser than those set forth in the Notice. If the sale is not consummated within such one-year period, the Offering Party's right so to sell shall end, and all the foregoing provisions of this Section shall be applied again to any future offer, all as aforesaid. If a sale is consummated within such one-year period, the purchaser shall purchase subject to a renewed right of first refusal in said property.

Exhibit "F"  
PERMITTED MORTGAGES

The provisions set forth in this Exhibit shall be understood to be provisions of Section 8 of the Lease to which the Exhibit is attached and in which the Exhibit is referenced. All terminology used in this Exhibit shall have the meaning assigned to it in the Lease.

1. STANDARD PERMITTED MORTGAGE: A "Standard Permitted Mortgage," as identified in Section 8.1 of the Lease to which this Exhibit is attached, shall be a mortgage that meets the following requirements.
  - 1.1 Such Mortgage shall run in favor of either (a) a so-called institutional lender such as, but not limited to, a federal, state, or local housing finance agency, a bank (including savings and loan association or insured credit union), an insurance company, a pension and/or profit-sharing fund or trust, or any combination of the foregoing, the policies and procedures of which institutional lender are subject to direct governmental supervision, or (b) a "community development financial institution" as certified by the U.S. Department of the Treasury, or similar nonprofit lender to housing projects for low- and moderate-income persons.
  - 1.2 Such Mortgage shall be a first lien on all or any of the Improvements and the Lessee's interest in the Lot (the "Security").
  - 1.3 Such Mortgage and related documentation shall provide, among other things, that in the event of a default in any of the mortgagor's obligations thereunder, the holder of such Mortgage shall notify Lessor of such fact and Lessor shall have the right (but shall not have the obligation) within 120 days after its receipt of such notice, to cure such default in the mortgagor's name and on mortgagor's behalf, provided that current payments due the holder during such 120-day period (or such lesser time period as may have been required to cure such default) are made to the holder, and shall further provide that said holder shall not have the right, unless such default shall not have been cured within such time, to accelerate the note secured by such Mortgage or to commence to foreclose under the Mortgage on account of such default.
  - 1.4 Such Mortgage and related documentation shall provide, among other things, that if after such cure period the holder intends to accelerate the note secured by such Mortgage or initiate foreclosure proceedings under the Mortgage, in accordance with the provisions of this Lease, the holder shall first notify Lessor of its intention to do so and Lessor shall have the right, but not the obligation, upon notifying the holder within thirty (30) days of receipt of said notice from said holder, to pay off the indebtedness secured by such Mortgage and to acquire such Mortgage.
  - 1.5 Such Mortgage and related documentation shall provide, among other things, that, in the event of foreclosure sale by a Permitted Mortgagee or the delivery of a deed to a Permitted Mortgagee in lieu of foreclosure, upon acquisition of title to the Improvements and the Lessee's interest in the Lot by the Permitted Mortgagee, the Permitted Mortgagee shall give the Lessor written notice of such acquisition and the Lessor shall have an option to purchase the Improvements and acquire the Lessee's interest in the Lot from the Permitted Mortgagee for the full amount owing to the Permitted Mortgagee under the

Permitted Mortgage; provided, however, that the Lessor gives written notice to the Permitted Mortgagee of the Lessor's intent to purchase the Improvements and acquire the Lessee's interest in the Lot within thirty (30) days following the Lessor's receipt of the Permitted Mortgagee's notice of such acquisition of the Improvements and Lessee's interest; further provided that Lessor shall complete the purchase of the Improvements and acquisition of Lessee's interest in the Lot within sixty (60) days of having given written notice of its intent to purchase; and provided that, if the Lessor does not complete the purchase within such period, the Permitted Mortgagee shall be free to sell the Improvements and transfer the Lessee's interest in the Lot to another person;

- 1.6 Such Mortgage and related documentation shall not contain any provisions other than provisions generally contained in mortgages used for similar transactions in the Flagstaff, Arizona area by institutional mortgagees.
- 1.7 Such Mortgage and related documentation shall not contain any provisions which could be construed as rendering Lessor or any subsequent holder of the Lessor's interest in and to this Lease, or their respective heirs, executors, successors or assigns, personally liable for the payment of the debt evidenced by such note and such Mortgage or any part thereof.
- 1.8 Such Mortgage and related documentation shall contain provisions to the effect that the holder of such Mortgage shall not look to Lessor or Lessor's interest in the Lot, but will look solely to Lessee, Lessee's interest in the Lot, the Improvements, or such other buildings and improvements which may from time to time exist on the Lot, for the payment of the debt secured thereby or any part thereof. (It is the intention of the parties hereto that Lessor's consent to such Mortgage shall be without any liability on the part of Lessor for any deficiency judgment).
- 1.9 Such Mortgage and related documentation shall provide that in the event any part of the Security is taken in condemnation or by right of eminent domain, the proceeds of the award shall be paid over to the holder of the Mortgage in accordance with the provisions of Section 9 hereof.
- 1.10 Such Mortgage and related documentation shall contain nothing that obligates Lessor to execute an assignment of the Ground Lease Fee or other rent payable by Lessee under the terms of this Lease.

2. RIGHTS OF PERMITTED MORTGAGEE. The rights of a holder of a Permitted Mortgage ("Permitted Mortgagee") as referenced under Section 8.2 of the Lease to which this Exhibit is attached shall be as set forth below.

- 2.2 Permitted Mortgagee shall without requirement of consent by the Lessor have the right, but not the obligation, to:
  - 2.1.2. cure any default under this Lease, and perform any obligation required under this Lease, such cure or performance by a Permitted Mortgagee being effective as if it had been undertaken and performed by Lessee;

2.1.2 acquire and convey, assign, transfer, and exercise any right, remedy or privilege granted to Lessee by this Lease or otherwise by law, subject to the provisions, if any, in said Permitted Mortgage, which may limit any exercise of any such right, remedy or privilege; and

2.1.3 rely upon and enforce any provisions of the Lease to the extent that such provisions are for the benefit of Permitted Mortgagee.

- 2.2 Permitted Mortgagee shall not, as a condition to the exercise of its rights under the Lease, be required to assume personal liability for the payment and performance of the obligations of the Lessee under the Lease. Any such payment or performance or other act by Permitted Mortgagee under the Lease shall not be construed as an agreement by Permitted Mortgagee to assume such personal liability except to the extent Permitted Mortgagee actually takes possession of the Security and the premises. In the event Permitted Mortgagee does take possession of the Security and thereupon transfers the Security, any such transferee shall be required to enter into a written agreement assuming such personal liability and upon any such assumption the Permitted Mortgagee shall automatically be released from personal liability under the Lease.
- 2.3 In the event that title to the estates of both Lessor and Lessee shall be acquired at any time by the same person or persons, no merger of these estates shall occur without the prior written declaration of merger by Permitted Mortgagee, so long as Permitted Mortgagee owns any interest in the Security or in a Permitted Mortgage. In the event that the estate of Lessor is owned at any time by Lessee (regardless of a merger), or by any person in which Lessee has a direct or indirect interest, Permitted Mortgagee shall not be obligated to cure any default of Lessee under the Lease as condition to the forbearance by Lessor in the exercise of Lessor's remedies as provided in the Lease.
- 2.4 If the Lease is terminated for any reason, or in the event of the rejection or disaffirmance of the Lease pursuant to bankruptcy law or other law affecting creditors' rights, Lessor shall enter into a new lease of the Land with the Permitted Mortgagee (or with any party designated by the Permitted Mortgagee, subject to Lessor's approval, which approval shall not be unreasonably withheld), not more than thirty (30) days after the request of the Permitted Mortgagee. Such lease shall be for the remainder of the term of the Lease, effective as of the date of such termination, rejection, or disaffirmance, and upon all the terms and provisions contained in the Lease. However, the Permitted Mortgagee shall make a written request to Lessor for such new lease within sixty (60) days after the effective date of such termination, rejection, or disaffirmance, as the case may be. Such written request shall be accompanied by a copy of such new lease, duly executed and acknowledged by the Permitted Mortgagee or the party designated by the Permitted Mortgagee to be the Lessee thereunder, and the Permitted Mortgagee shall have cured all defaults under the Lease which can be cured by the payment of money. Any new lease made pursuant to this Section shall have the same priority with respect to other interests in the Premises as the Lease. The provisions of this Section shall survive the termination, rejection, or disaffirmance of the Lease and shall continue in full effect thereafter to the same extent as if this Section were independent and an independent contract made by Lessor, Lessee, and the Permitted Mortgagee.



- 2.5 The Lessor shall have no right to terminate the Lease during such time as the Permitted Mortgagee has commenced foreclosure in accordance with the provisions of the Lease and is diligently pursuing the same.
- 2.6 In the event that Lessor sends a notice of default under the Lease to Lessee, Lessor shall also send a notice of Lessee's default to Permitted Mortgagee. Such notice shall be given in the manner set forth in Section 14.2 of the Lease to the Permitted Mortgagee at the address that has been given by the Permitted Mortgagee to Lessor by a written notice to Lessor sent in the manner set forth in said Section 14.2 of the Lease.

Other Exhibits To Be Attached as Appropriate

**EXHIBIT "A"**

**DESCRIPTION OF LAND**

Correct legal description of area of Land and appurtenant title rights and obligations

**EXHIBIT "D"**

**ZONING**

Setting forth applicable zoning restrictions as of the commencement of the Lease

**EXHIBIT "E"**

**RESTRICTIONS**

To be attached when necessary to stipulate use restrictions not included under Zoning

**EXHIBIT "F"**

**INITIAL APPRAISAL**

## ***Exhibit “F”***

### **OTHER RESTRICTIONS**

Lessee to inform City staff of any and all existing infrastructure and utilities identified during the site work and construction, and to preserve them in working order unless staff provides written permission for an alternative action.

Lessee to comply with the Conditions of Approval from Development Review Staff

1. If the existing 4” Austrian Pine located at the front of the proposed residence cannot be saved, it will need to be replaced with 2 new trees, 4 shrubs and 4 ground covers in compliance with Section 10-50.60.050.B of the Zoning Code. A plan for this landscaping must be submitted and approved prior to installation.
2. The lot combination/split form must be executed and recorded prior to issuance of a building permit.
3. A land lease with the City of Flagstaff must be executed prior to issuance of a building permit.

## CITY OF FLAGSTAFF STAFF SUMMARY REPORT

**To:** The Honorable Mayor and Council  
**From:** Eileen Hamlin, Stormwater Services Analyst  
**Co-Submitter:** Amy Hagin, Senior Procurement Specialist  
**Date:** 03/24/2014  
**Meeting Date:** 04/01/2014



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### TITLE:

**Consideration and Approval of Contract:** Consultant Agreement; Utility Rate and Capacity Fee Study  
*(Approval of the Agreement will allow Willdan Financial Services, Inc. to prepare a Utility Rate and Capacity Fee Study for the City of Flagstaff)*

### RECOMMENDED ACTION:

- 1) Approve the Agreement with Willdan Financial Services, Inc. for the amount of \$114,380
- 2) Authorize the City Manager to execute the necessary documents
- 3) Authorize change order authority for the City Manager for the amount of \$11,438 (10%) to cover the expense of additional items or other unanticipated work

### Policy Decision or Reason for Action:

On November 6, 2013 the City issued a Request for Proposals (RFP) for professional consulting services to provide an economic model and a complete cost analysis, resulting in its recommendations for rates and charges for water, wastewater, reclaimed water, capacity fees, septage fees and stormwater fees and assessments. We received six (6) responses to the RFP. An interdivisional group of five (5) City employees evaluated the proposals and selected Willdan Financial Services, Inc. as the most qualified to perform the requirements of the RFP. In accordance with the draft policy A.3, Rate Design Elements, of the Utilities Water Policies under consideration by City Council, Utilities will perform a formal rate study every three (3) years.

### Financial Impact:

The rate study is currently in the FY 2014 CIP budget at \$150,000

### Connection to Council Goal:

1. Repair, replace, maintain infrastructure (streets & utilities)
5. Retain, expand, and diversify economic base
11. Effective governance.

### Has There Been Previous Council Decision on This:

No

**Options and Alternatives:**

- 1) Award the contract to Willdan Financial Services, Inc..
- 2) Do not award the contract to conduct the rate study and financial model development, and continue with the current system. The current model does need a comprehensive revision based on a rate study determination.
- 3) Remand the contract and scope to staff for further consideration. This will delay the initiation of the process and require a new procurement process .

**Background/History:**

Since at least the early 1980's, the Utilities Division has historically based the rates, fees, and assessments charged to customers by using an economic model to predict the cost of amortized operation and upkeep of the City Utilities infrastructure.

Costs of Service rates are based on a systematic approach to the allocation of user charge revenue requirements to customer classes. Equitable rates are rates that are based on cost of service norms, and where the customer who is charged for the service is charged in proportion to the cost burden caused by that customer class.

An important aspect of assigning rates, fees, and rate classes is the establishment of revenue components in a legally defensible format. Additionally, this study will use sound financial principles outlined in Section A – Finance of the draft Utilities Water Policies under development by City Council. This study will accomplish that goal for the Utilities Division and the City.

**Key Considerations:**

The goal of the rate study is to ensure that the Utility has sufficient revenues to cover O&M and Capital costs as well as to meet the City's debt coverage requirements and working capital guidelines.

The economic model and analysis will evaluate the current rates and provide recommendations for fee structures that will meet cost and revenue requirements for a base fiscal year and ten subsequent years.

Six (6) firms submitted proposals for performing the rate study. A five (5) person evaluation committee independently reviewed each proposal and scored the firms on the following criteria: experience and qualifications, presented approach and creativity, ability to meet schedule commitments, project delivery system, and fee. The initial scoring tabulation resulted in a short-list of three (3) firms to be invited to perform an interview with the evaluation committee. There were a total of 500 points possible in the initial evaluation.

The interview component provided for an additional 100 possible points to be calculated as an aggregate total of 600 possible points. The scoring results are on the attached Scoring Tabulation document.

**Expanded Financial Considerations:**

The rate study is currently in the FY 2014 CIP budget at \$150,000 in account number 201-08-370-3179-0-4421

**Community Benefits and Considerations:**

This rate study will assist in achieving a fair and equitable rate structure, user fees and capacity charges that reflect the actual cost of the operation, maintenance, repair and replacement of the Utilities infrastructure. Costs will be distributed according to the value to the user class, or as the Council ultimately decides.

**Community Involvement:**

Inform  
Involve

This rate study will go through a comprehensive review by City Staff and by the Water Commission. This project will include extensive public outreach including data and analytical details. Public meetings for comment will be conducted during the Water Commission meetings as well as during Council meetings.

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**Attachments:**     Willdan Financial Services, Inc. Agreement  
                             Scoring Tabulation

**AGREEMENT FOR  
UTILITY RATE CAPACITY STUDY CONSULTING SERVICES**

**CITY OF FLAGSTAFF  
and  
WILLDAN FINANCIAL SERVICES, INC.**

This Agreement for a City of Flagstaff Utility Rate Capacity Study Consulting Services ("Agreement") is made by and between the City of Flagstaff ("City"), a municipal corporation with offices at 211 W. Aspen Avenue, Flagstaff, Coconino County, Arizona, and Willdan Financial Services, Inc., with an office at 27368 Via Industria, Suite 110, Temecula, California 92590 ("Provider"), effective as of the date written below.

**RECITALS**

- A. The City desires to enter into this Agreement for Utility Rate Capacity Study Consulting Services; and
- B. Provider has available and offers to provide the personnel necessary to organize and provide said services in accordance with the Scope of Work, attached to this Agreement as Exhibit A;

For the reasons recited above, and in consideration of the mutual covenants contained in this Agreement, the City and Provider agree as follows:

**1. SERVICES TO BE PERFORMED BY PROVIDER**

Provider agrees to provide the services, as set forth in detail in Exhibit "A" attached hereto and hereby incorporated as part of this Agreement and adopted by reference.

**2. COMPENSATION OF PROVIDER**

The City agrees to make payment, in the amount of \$114,380 to Provider to render the services set forth in Exhibit "B".

**3. RIGHTS AND OBLIGATIONS OF PROVIDER**

3.1 Independent Contractor. The parties agree that Provider performs specialized services and that Provider enters into this Agreement with the City as an independent contractor. Nothing in this Agreement shall be construed to constitute Provider or any of Provider's agents or employees as an agent, employee or representative of the City. As an independent contractor, Provider is solely responsible for all labor and expenses in connection with this Agreement and for any and all damages arising out of Provider's performance under this Agreement. Provider is not obligated to accept all requests for services, depending on circumstances with other work being performed for other clients.

3.2 Provider's Control of Work. All services to be provided by Provider shall be performed as determined by the City in accordance with the Scope of Services set forth in Exhibit "A." Provider shall furnish the qualified personnel, materials, equipment and other items necessary to carry out the terms of this Agreement. Provider shall be responsible for and in full control of the work of all such personnel.

3.3 Reports to the City. Although Provider is responsible for control and supervision of work performed under this Agreement, the services provided shall be acceptable to the City and shall be subject to a general right of inspection and supervision to ensure satisfactory completion. This right of inspection and supervision shall include, but not be limited to, all reports if requested by the City to be provided by Provider to the City and the right of the City, and the right of the City to audit Provider's records.

3.4 Compliance with All Laws. Provider shall comply with all applicable laws, ordinances, rules, regulations and executive orders of the federal, state and local government, which may affect the performance of this Agreement. Any provision required by law, ordinances, rules, regulations, or executive orders to be inserted in this Agreement shall be deemed inserted, whether or not such provisions appear in this Agreement.

#### **4. NOTICE PROVISIONS**

Notice. Any notice concerning this Agreement shall be in writing and sent by certified or registered mail as follows:

To the City's Authorized Representative:

To Provider:

Eileen Hamlin, CFM  
Stormwater Analyst  
City of Flagstaff  
211 W. Aspen  
Flagstaff, Arizona 86001

#### **5. INDEMNIFICATION**

To the fullest extent permitted by law, Provider shall indemnify, defend, save and hold harmless the City of Flagstaff and its officers, officials, agents, and employees (hereinafter referred to as "Indemnatee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including court costs, attorneys' fees, and costs of claim processing, investigation and litigation) (hereinafter referred to as "Claims") for bodily injury or personal injury (including death), or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Provider or any of its owners, officers, directors, agents, employees or subcontractors. This indemnity includes any claim or amount arising out of or recovered under the Workers' Compensation Law or arising out of the failure of such Provider to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. It is the specific intention of the parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by Provider from and against any and all claims. It is agreed that Provider shall be responsible for primary loss investigation, defense and judgment costs where this indemnification is applicable. Provider shall waive all rights of subrogation against the City, its officers, officials, agents and employees for losses arising from the work performed by Provider for the City.



Provider and subcontractors, if any, shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Provider, its agents, representatives, employees or subcontractors.

**A. Minimum Scope and Limits of Insurance.** Provider shall provide coverage at least as broad and with limits of liability not less than those stated below.

- B. SELF-INSURED RETENTIONS/DEDUCTIBLES:** Any self-insured retentions and deductibles must be noted to the City. However, the Proposer shall be solely responsible for any self-insured and/or deductibles associated with the Proposer's insurance coverage.

1. Commercial General Liability and Automobile Liability Coverages:
  - a. The City of Flagstaff, its officers, officials, and employees are additional insureds with respect to liability arising out of: activities performed by, or on behalf of, the Provider; including the City's general supervision of the Provider; products and completed operations of the Provider: and automobiles owned, leased, hired or borrowed by the Provider.
  - b. The Provider's insurance shall contain broad form contractual liability coverage.
  - c. The Provider's insurance coverage shall be primary insurance with respect to the City, its, officers, officials, and employees. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be in excess to the coverage of the Provider's insurance and shall not contribute to it.

- d. The Provider's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
  - e. Coverage provided by the Provider shall not be limited to the liability assumed under the indemnification provisions of this contract.
  - f. The policies shall contain a waiver of subrogation (not including auto) against the City, its officers, officials, and employees for losses arising from work performed by the Provider for the City.
2. Workers' Compensation and Employer's Liability Coverage: The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses arising from work performed by the Provider for the City.
- 6.1 Notice of Cancellation. Each insurance policy required by the insurance provisions of this Agreement shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the City, except when cancellation is for non-payment of premium, then at least ten (10) days prior notice shall be given to the City. Such notice shall be sent directly to:

**Rick Compau, C.P.M., CPPO, CPPB**  
**Purchasing Director**  
**City of Flagstaff, Purchasing Division**  
**211 W. Aspen Ave.**  
**Flagstaff, Arizona 86001**

- 6.2 Acceptability of Insurers. Insurance shall be placed with insurers duly licensed or authorized to do business in the State of Arizona and with an "A.M. Best" rating of not less than A- VII, or receiving prior approval by the City. The City in no way warrants that the above-required minimum insurer rating is sufficient to protect Provider from potential insurer insolvency.
- 6.3 Verification of Coverage. Prior to commencing work or services, Provider shall furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Agreement. The certificates for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements shall be received and approved by the City before work commences. Each insurance policy required by this Agreement shall be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of this Agreement. Failure to maintain the insurance policies as required by this Agreement or to provide evidence of renewal shall constitute a material breach of contract.

All certificates required by this Agreement shall be sent directly to **Rick Compau, C.P.M., CPPO, CPPB, Purchasing Director, City of Flagstaff, Purchasing Division, 211 W. Aspen Ave., Flagstaff, AZ. 86001.** The City project/contract number and

project description shall be noted on the certificate of insurance. The City reserves the right to request and receive within ten (10) days, complete, certified copies of all insurance policies required by this Agreement at any time. The City shall not be obligated, however, to review same or to advise Provider of any deficiencies in such policies and endorsements, and such receipt shall not relieve Provider from, or be deemed a waiver of the City's right to insist on, strict fulfillment of Provider's obligations under this Agreement.

6.4 Subcontractors. Providers' certificate(s) shall include all subcontractors as additional insureds under its policies **or** Provider shall furnish to the City separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.

6.5 Approval. Any modification or variation from the insurance requirements in this Agreement shall be made by the City Attorney's office, whose decision shall be final. Such action shall not require a formal amendment to this Agreement, but may be made by administrative action.

## **7. DEFAULT AND TERMINATION**

7.1 Events of Default Defined. The following shall be Events of Default under this Agreement:

7.1.1 Any material misrepresentation made by Provider to the City;

7.1.2 Any failure by Provider to perform its obligations under this Agreement including, but not limited to, the following:

7.1.2.1 Failure to commence work at the time(s) specified in this Agreement due to a reason or circumstance within Provider's reasonable control;

7.1.2.2 Failure to perform the work with sufficient personnel and equipment or with sufficient equipment to ensure completion of the work within the specified time;

7.1.2.3 Failure to perform the work in a manner reasonably satisfactory to the City;

7.1.2.4 Failure to promptly correct or re-perform within a reasonable time work that was rejected by the City as unsatisfactory or erroneous;

7.1.2.5 Discontinuance of the work for reasons not beyond Provider's reasonable control;

7.1.2.6 Failure to comply with a material term of this Agreement, including, but not limited to, the provision of insurance; and

7.1.2.7 Any other acts specifically stated in this Agreement as constituting a default or a breach of this Agreement.

## 7.2 Remedies.

7.2.1 Upon the occurrence of any Event of Default, the City may declare Provider in default under this Agreement. The City shall provide written notification of the Event of Default and any intention of the City to terminate this Agreement. Upon the giving of notice, the City may invoke any or all of the following remedies:

7.2.1.1 The right to cancel this Agreement as to any or all of the services yet to be performed;

7.2.1.2 The right of specific performance, an injunction or any other appropriate equitable remedy;

7.2.1.3 The right to monetary damages;

7.2.1.4 The right to withhold all or any part of Provider's compensation under this Agreement;

7.2.1.5 The right to deem Provider non-responsive in future contracts to be awarded by the City; and

7.2.1.6 The right to seek recoupment of public funds spent for impermissible purposes.

7.2.2 The City may elect not to declare an Event of Default or default under this Agreement or to terminate this Agreement upon the occurrence of an Event of Default. The parties acknowledge that this provision is solely for the benefit of the City, and that if the City allows Provider to continue to provide the Services despite the occurrence of one or more Events of Default, Provider shall in no way be relieved of any of its responsibilities or obligations under this Agreement, nor shall the City be deemed to waive or relinquish any of its rights under this Agreement.

7.2.3 Any excess costs incurred by the City in the event of termination of this Agreement for default, or in the event the City exercises any of the remedies available to it under this Agreement, may be offset by use of any payment due for services completed before termination of this Agreement for default or the exercise of any remedies. If the offset amount is insufficient to cover excess costs, Provider shall be liable for and shall remit promptly to the City the balance upon written demand from the City.

## 8. **GENERAL PROVISIONS**

8.1 Headings. The article and section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

8.2 Jurisdiction and Venue. This Agreement shall be administered and interpreted under the laws of the State of Arizona. Provider hereby submits itself to the original jurisdiction of those courts located within Coconino County, Arizona.

8.3 Attorney's Fees. If suit or action is initiated in connection with any controversy arising out of this Agreement, the prevailing party shall be entitled to recover in addition to costs such sum as the

court may adjudge reasonable as attorney fees, or in event of appeal as allowed by the appellate court.

8.4 Severability. If any part of this Agreement is determined by a court to be in conflict with any statute or constitution or to be unlawful for any reason, the parties intend that the remaining provisions of this Agreement shall remain in full force and effect unless the stricken provision leaves the remaining Agreement unenforceable.

8.5 Assignment. This Agreement is binding on the heirs, successors and assigns of the parties hereto. This Agreement may not be assigned by either the City or Provider without prior written consent of the other.

8.6 Conflict of Interest. Provider covenants that Provider presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Provider further covenants that in the performance of this Agreement, Provider shall not engage any employee or apprentice having any such interest. The parties agree that this Agreement may be cancelled for conflict of interest in accordance with Arizona Revised Statutes § 38-511.

8.7 Authority to Contract. Each party represents and warrants that it has full power and authority to enter into this Agreement and perform its obligations hereunder, and that it has taken all actions necessary to authorize entering into this Agreement.

8.8 Integration. This Agreement represents the entire understanding of City and Provider as to those matters contained in this Agreement, and no prior oral or written understanding shall be of any force or effect with respect to those matters. This Agreement may not be modified or altered except in writing signed by duly authorized representatives of the parties.

8.9 Non-appropriation. In the event that no funds or insufficient funds are appropriated and budgeted in any fiscal period of the City for payments to be made under this Agreement, the City shall notify Provider of such occurrence, and this Agreement shall terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for payment under this Agreement are exhausted. No payments shall be made or due to Provider under this Agreement beyond these amounts appropriated and budgeted by the City to fund payments under this Agreement.

8.10 Compliance with Federal Immigration Laws and Regulations. Provider hereby warrants to the City that the Provider and each of its subcontractors ("Subcontractors") will comply with, and are contractually obligated to comply with, all Federal Immigration laws and regulations that relate to its employees and A.R.S. §23-214(A) (hereinafter "Provider Immigration Warranty").

A breach of the Provider Immigration Warranty shall constitute a material breach of this Agreement and shall subject the Provider to penalties up to and including termination of this Agreement at the sole discretion of the City.

The City retains the legal right to inspect the papers of any Provider or Subcontractor employee who works on this Agreement to ensure that the Provider or Subcontractor is complying with the Provider Immigration Warranty. Provider agrees to assist the City in regard to any such inspections.

The City may, at its sole discretion, conduct random verification of the employment records of the Provider and any of subcontractors to ensure compliance with Provider's Immigration Warranty. Provider agrees to assist the City in regard to any random verifications performed.

The provisions of this Article must be included in any contract the Provider enters into with any and all of its subcontractors who provide services under this Agreement or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

8.11 Subcontractors. This Agreement or any portion thereof shall not be sub-contracted without the prior written approval of the City. No Subcontractor shall, under any circumstances, relieve Provider of its liability and obligation under this Agreement. The City shall deal through Provider and any Subcontractor shall be dealt with as a worker and representative of Provider. Provider assumes responsibility to the City for the proper performance of the work of Subcontractors and any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between the City and any Subcontractor or Sub-Subcontractor, including but not limited to any third-party beneficiary rights.

8.13 Waiver. No failure to enforce any condition or covenant of this Agreement by the City shall imply or constitute a waiver of the right of the City to insist upon performance of the condition or covenant, or of any other provision of this Agreement, nor shall any waiver by the City of any breach of any one or more conditions or covenants of this Agreement constitute a waiver of any succeeding or other breach under this Agreement.

## 9. DURATION

This Agreement shall become effective on and from the day and year executed by the parties, indicated below, and shall continue in force for an initial term of five (5) years, beginning April 1st, 2014 through March 31st, 2019], unless sooner terminated as provided above. Upon mutual agreement between the City and Provider, this Agreement may be renewed for a maximum of one (1) additional five (5) year term, upon mutual agreement from both parties.

**City of Flagstaff**

**Provider**

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Kevin Burke, City Manager

Attest:

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City Clerk

Approved as to form:

_____  
City Attorney

Date of Execution: _____

# EXHIBIT A

## PROJECT DESCRIPTION/BACKGROUND

The City of Flagstaff is seeking professional consulting services to prepare an economic model, a complete analysis, and resulting recommendations for its rates and charges for the following utilities:

- Water
- Wastewater
- Reclaimed Water,
- Buy-in Capacity Fees
- Stormwater

The goal of the analysis is to ensure the utility has sufficient revenues to cover the operation, maintenance and replacement costs identified below and to meet the City's debt coverage requirements and capital program guidelines. The economic model and analysis should evaluate the current rates, and provide recommendations for fee structures that will meet cost and revenue requirements for a base fiscal year and ten subsequent years.

### Water:

The City of Flagstaff has approximately 19,500 water service connections and maintains 433 miles of potable water main on twelve major reservoirs operating on three distinct pressure zones. The Utilities Water Production Section operates an eight million gallons per day (MGD) surface water processing plant obtaining raw water from Upper Lake Mary. The Inner Basin provides seasonal springs and a shallow aquifer system that are capable of up to two (2) MGD of production during the summer. Twenty-six (26) deep wells in three (3) major well fields may contribute up to an additional twelve (12) MGD of potable water. The City has purchased Red Gap Ranch located approximately 35 miles east of the City for potential groundwater development. Other water farm tracts are under consideration. There is also a possibility of a future Colorado River surface water allotment and a pipeline from Lake Powell. A comprehensive report to the City's Water Commission that is updated yearly, provides a detailed description of the infrastructure and an operation plan for the Utilities Division.

### Wastewater:

The City operates two wastewater treatment plants that serve a combined population of approximately 67,000 residents. The Wildcat Hill Wastewater Treatment Plant (WWTP) is a six (6) MGD facility and the Rio De Flag Water Reclamation Plant can process up to a four (4) MGD of wastewater flow. The City maintains 274 miles of gravity flow sanitary sewer. The City has projected estimates for additional wastewater treatment capacity needs and its timing.

### Reclaimed Water:

Additionally the Utilities Division maintains about 25 miles of reclaimed water mains connected to a two (2) million gallon storage tank. The City Parks and Recreation Division, Northern Arizona University, SCA Tissue, a recycled paper products manufacturing facility, three (3) golf courses along with construction related uses are currently the largest users of reclaimed water in the summer time. The Arizona Snowbowl is the largest user during the wintertime. Reclaimed water is available off of the existing mains down to the residential level for



permitted non-potable uses. During the last 20 years the attractive pricing of the reclaimed water has made the demand for this commodity greater than current supply during the summer months of the year. The City has estimates for capital improvements to the reclaimed system.

The Utilities Division has completed a major upgrade to the Wildcat Hill WWTP in 2010 with the intent of providing Class A+ quality reclaimed water. However, this plant is currently under a Consent Order by the Arizona Department of Environmental Quality and requires numerous additional capital projects to ensure the facility consistently makes Class A+ quality reclaimed water.

#### Buy-in Capacity Fees:

Currently this City has Capacity Fees for the water and wastewater systems. Water and Waste Water capacity fees must be developed in accordance with applicable Arizona regulations in particular Senate Bill 1525.

#### Stormwater:

The City of Flagstaff presently owns and operates stormwater management infrastructure systems and facilities which have been developed, installed and acquired through various mechanisms over many years. The future usefulness and value of the existing stormwater systems and facilities and of future additions and improvements thereto, rests on the ability of the City to effectively manage, construct, protect, operate, maintain, control, regulate, use and enhance the stormwater systems and facilities in the City. In order to do so, the City must have adequate and stable funding for its stormwater management program operating and capital improvement needs.

The City has a current water and wastewater rate model that is 3 years old. This is an Excel spread sheet model which is the preferred application for the rate model.

The City has an established water conservation program based on an inverted block rate structure that increases the cost of single-family residential water proportionally as monthly water consumption increases. Single-family Residential sewer charges are based on a winter quarter average taken when outside water use is not a factor. The success of the conservation program has reduced projected potable water consumption averages and associated revenue due to less potable water use billed and a subsequent decrease of flow to the City sewers. Other customer classes utilize a flat rate, regardless of consumption.

## **SCOPE OF WORK**

### **BASIC SERVICES**

#### **TASK 1 – STUDY ORIENTATION**

##### 1.1 Data Request

Consultant shall provide a list of financial and statistical information needed to complete rate study analysis. Consultant shall provide frequent updates of data request list showing items

that have been obtained and items still outstanding. Consultant shall revise list as necessary to reflect additional items.

#### 1.2 Study Orientation Workshop

Consultant shall facilitate Study Orientation Workshop with City representatives to:

- Clarify roles, confirm study objectives, communication procedures, study schedule, and due dates for deliverables,
- discuss financial and operational information received prior to meeting,
- identify pricing objectives for utility rates including water, wastewater, reclaimed water, stormwater and Buy-in capacity fees
- identify additional information needed to complete study, and
- identify assumptions and relevant City policies as well as applicable statutes.

Consultant shall prepare and submit meeting summary within five (5) days of Study Orientation Workshop via e-mail in PDF format.

#### 1.3 Rate Survey

Consultant shall obtain list from City representative of up to 10 cities to be included in survey of utility rates.

#### 1.4 Project Progress and Schedule

Consultant shall monitor and report progress of project through monthly reports for an assumed 9-month period of service. The monthly reports shall include a written report of work accomplished during the month and shall accompany Consultant's monthly invoices.

#### 1.5 General Management and Coordination

Consultant shall provide day-to-day general project coordination and consultation with City representatives.

### **TASK 2 – FINANCIAL PLAN**

#### 2.1 Study Period

Consultant shall identify 10-year study period for financial plan forecast.

#### 2.2 Capital Improvement Program

Consultant shall review utility capital improvement programs for completeness. Consultant shall assist City representatives in allocating capital projects to growth and non-growth categories.

#### 2.3 Customer Units of Service

Consultant shall evaluate customer growth and usage characteristics for utilities by customer class and meter size. Consultant shall assist City representatives in developing water bill frequency analysis to determine the usage characteristics for each customer class.

#### 2.4 Revenue Under Existing Rates

Consultant shall calculate revenue under current rates for study period for customer class and meter size basis using bill frequency information provided by City.

#### 2.5 Miscellaneous Revenue

Consultant shall project revenue from miscellaneous utility sources for study period including Buy-in capacity fees, tap fees, hydrant rental, investment income and other sources as well as plan review fees, rough and final grading inspection fees and other ancillary charges.

#### 2.6 Operation and Maintenance Expense

Consultant shall review historical cost trends to project expenses and to recognize changes in certain costs consistent with changes in future utility operations.

#### 2.7 Debt Service]

Consultant shall conduct analysis to ensure compliance with covenants and financial requirements associated with existing or proposed bond obligations and other debt instruments.

#### 2.8 Reserves

Consultant shall review City reserve requirements and recommend changes, if appropriate, to comply with general industry standards.

#### 2.9 Cash Flow Analysis

Consultant shall develop up to four cash flow scenarios for study period incorporating revenue requirements developed and showing various capital funding options, debt coverage options, reserves options and other parameters that may affect projected rate increases.

#### 2.10 Financial Plan Technical Memorandum

Consultant shall prepare and submit meeting summary within five (5) days of meeting via e-mail in PDF format.

### **TASK 3 – COST OF SERVICE ANALYSIS**

#### 3.1 Test Year

Consultant shall select test year or years for cost of service analysis. The consultant may choose to use the existing cost of service analysis prepared in 2010.

#### 3.2 Customer Class Characteristics

Consultant shall use billing data to develop customer characteristics and recommend additional customer classes, if appropriate. The consultant has the option of using the existing customer cost allocation and customer classes established in 2010, or of preparing a new customer cost allocation for existing customer classifications.

#### 3.3 Water Cost Analysis

Consultant shall perform water cost of service analysis in accordance with American Water Works Association accepted methods.

#### 3.4 Wastewater Cost Analysis

Consultant shall perform wastewater cost of service analysis in accordance with Water Environment Federation accepted methods.

#### 3.5 Stormwater Cost Analysis

Consultant shall perform stormwater cost of service analysis in accordance with industry accepted methods. The City currently has a Stormwater Utility Fee based on an Impervious Area Rate Methodology. An Equivalent Rate Unit (ERU) is 1500 square feet of

impervious area within each parcel boundary. Each whole ERU, or increment thereof, is billed at a rate of \$1.30 per ERU.

### 3.6 Summary

Consultant shall compare test year class cost of service with class revenue under existing rates.

## **TASK 4 – RATE DESIGN**

### 4.1 Rate Design

Consultant shall design utility rates to produce adequate revenue, equitably recover class cost of service, and comply with City policies. If appropriate, rates will be designed using existing rate structure and up to two alternative structures. Consultant shall review and analyze water reclamation benefits and cost and develop rate for reuse water.

### 4.3 Rate Design Workshop

Consultant shall facilitate Rate Design Workshop with City representatives to discuss rate design preferences and to select alternative rate structures and rate levels for presentation to City management staff and Council.

### 4.4 Rate Design Technical Memorandum

Consultant shall prepare and submit meeting summary within five (5) days of meeting via e-mail in PDF format.

## **TASK 5 – STUDY REPORTS**

### 5.1 Draft Report

Consultant shall prepare up to three versions of draft report to document study assumptions, procedures, finding and recommendations. Twenty hard copies and one electronic copy of the draft report shall be provided to the City.

### 5.2 Draft Report Workshop

Consultant shall facilitate Draft Report Workshop with City representative to discuss City Comments on draft report.

### 5.3 Final Report

Consultant shall prepare final report incorporating comments received from City representatives and deliver 20 hard copies and two CD's with report files in PDF format to the City.

## **TASK 6 – PRESENTATION**

### 6.1 Preparation

Consultant shall prepare presentation for City Council and provide to City representatives for review prior to meeting. Presentations will include three (3) Water Commission Meetings and three (3) City Council meetings.

### 6.2 Presentation

Consultant shall be prepared to present to the City Council the final report with recommendations at the request of the representatives of City.

## **TASK 7 – MODEL**

### **7.1 Model Development**

Consultant shall work with City representatives throughout study on design and operation of Microsoft Excel model. Consultant shall deliver a Microsoft Excel financial model to the City. The City will retain this model which enables the City to calculate future fees and charges

### **7.2 Training Session**

Consultant shall conduct one-day session to train City representatives in model design and layout; adjustment of key variables that support efficient “what-if” scenario development features of model; and update with new budget, CIP, and revenue information for future use.

### **7.3 User Manual**

Consultant shall deliver Microsoft Excel financial model and user manual to City. Five (5) hard copies of user manual and one (1) CD with electronic files in Microsoft Word and PDF format shall be provided to City.

## **ADDITIONAL SERVICES**

The City may request services that are supplemental to those included in the Basic Scope of Services. These services shall be upon written authorization from City and may include, but not be limited to, the following tasks:

- Development of up to three additional alternative financial plans.
- Development of up to three additional alternative rate structures.
- Development of comparison rates of 10 cities selected in Task 1.3 with current and proposed City rates with comparison of monthly bills for median residential user
- Development of an alternative for annual rate model maintenance

Please provide pricing for the above additional services as alternate pricing packages.

## Price/Fee

Based on the work plan described in Willdan Financial Services' ("Willdan") technical proposal, we propose a **not-to-exceed fee of \$114,380**. The table below provides a breakdown of this fee by task and project team member. The City requested estimated fees to provide the following additional services:

- Development of up to three additional alternative financial plans;
- Development of up to three additional alternative rate structures; and
- Development of comparison rates of 10 cities with current and proposed City rates, including a comparison of monthly bills for median residential user.

**Our rate analyses typically include these services and have been included in our normal, competitive pricing.**

City of Flagstaff— Utility Rate Capacity Study Consulting							
	C. Fisher Project Manager	K. Burnett/ J. Varnes Sr. Financial Consultants	T. Thrasher Financial Analyst	J. McGarvey QA/QC & Tech Advisor	P. Walker Tech & Policy Advisor	Total	
	\$210	\$175	\$120	\$200	\$200	Hours	Cost
Work Plan							
Task 1: Data Evaluation and Validation	2.0	12.0	8.0	2.0	2.0	26.0	4,280
Task 2: Initial Staff Planning Workshop	8.0	12.0	10.0	8.0	8.0	46.0	8,180
Task 3: Development of an Optimized Financial Management Plan	8.0	56.0	60.0	6.0	10.0	140.0	21,880
Task 4: Cost of Service Analysis (Includes Stormwater Analysis)	8.0	60.0	36.0	4.0	8.0	116.0	18,900
Task 5: Rate Design Analysis	16.0	56.0	40.0	4.0	12.0	128.0	21,160
Task 6: Capacity Fee Analysis	4.0	48.0	40.0	4.0	12.0	108.0	17,240
Task 7: Reports, Presentations, and Public Information and Educational Assistance	24.0	24.0	12.0	12.0	24.0	96.0	17,880
Task 8: Model Training	6.0	16.0	-	-	4.0	26.0	4,860
<b>Total Cost</b>	<b>76.0</b>	<b>284.0</b>	<b>206.0</b>	<b>40.0</b>	<b>80.0</b>	<b>686.0</b>	<b>\$114,380</b>

### Notes:

- Our fee includes all direct expenses associated with the project.
- We will invoice the City monthly based on percentage of project completed.

**CITY OF FLAGSTAFF  
PURCHASING DIVISION  
RFP NO. 2014-38 UTILITY RATE CAPACITY STUDY**

**SCORING TABULATION**

<b>Presentation - 50 Points Value</b>			
	<b>BLACK &amp; VEATCH</b>	<b>NBS</b>	<b>WILLDAN</b>
<i>Evaluator #1</i>	36	35	46
<i>Evaluator #2</i>	45	40	50
<i>Evaluator #3</i>	48	45	45
<i>Evaluator #4</i>	48	40	45
<i>Evaluator #5</i>	45	42	42
<b>Subtotal:</b>	<b>44.4</b>	<b>40.4</b>	<b>45.6</b>
<b>Criteria Ranking:</b>	2	3	1

<b>Question &amp; Answer - 50 Points Value</b>			
	<b>BLACK &amp; VEATCH</b>	<b>NBS</b>	<b>WILLDAN</b>
<i>Evaluator #1</i>	35	39	41.5
<i>Evaluator #2</i>	50	30	40
<i>Evaluator #3</i>	48	39	48
<i>Evaluator #4</i>	47	33	43
<i>Evaluator #5</i>	46	38	43
<b>Subtotal:</b>	<b>45.2</b>	<b>35.8</b>	<b>43.1</b>
<b>Criteria Ranking:</b>	1	3	2
<b>TOTAL INTERVIEW SCORE:</b>	<b>89.6</b>	<b>76.2</b>	<b>88.7</b>
<b>Total Criteria Ranking:</b>	<b>1</b>	<b>3</b>	<b>2</b>

<b>RFP TOTAL SCORE</b>	<b>413.50</b>	<b>385.00</b>	<b>417.00</b>
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<b>AGGREGATE TOTAL SCORE</b>	<b>503.1</b>	<b>461.2</b>	<b>505.7</b>
<b>Aggregate Criteria Ranking:</b>	<b>2</b>	<b>3</b>	<b>1</b>

**CITY OF FLAGSTAFF**  
**STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Kevin Treadway, Police Chief  
**Co-Submitter:** Marianne Sullivan, Assistant City Attorney - Prosecution  
**Date:** 03/24/2014  
**Meeting Date:** 04/01/2014



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**TITLE:**

**Consideration of Ordinance No. 2014-09:** An ordinance prohibiting aggressive solicitation.

**RECOMMENDED ACTION:**

At the meeting of April 1, 2014

- 1) Read Ordinance No. 2014-09 by title only for the first time
- 2) City Clerk reads Ordinance No. 2014-09 by title only (if approved above)

At the meeting of April 15, 2014

- 3) Read Ordinance No. 2014-09 by title only for the final time
- 4) City Clerk reads Ordinance No. 2014-09 by title only (if approved above)
- 5) Adopt Ordinance No. 2014-09

**Policy Decision or Reason for Action:**

The Flagstaff Police Department with assistance from the Flagstaff City Attorney's Office is requesting the approval of Ordinance 2014-09, which would prohibit aggressive solicitation in Flagstaff.

**Financial Impact:**

There is no financial impact to the City of Flagstaff by adopting this ordinance.

**Connection to Council Goal:**

Effective governance by addressing public safety and constituent concerns.

**Has There Been Previous Council Decision on This:**

Council has not made a prior decision on this issue. The prospect of developing an ordinance prohibiting aggressive solicitation was presented during Council work session on February 11, 2014. Council provided support in bringing a draft ordinance forward.

**Options and Alternatives:**

- 1) Adopt Ordinance 2014-09, making it unlawful to aggressively solicit in Flagstaff.
- 2) Amend Ordinance 2014-09
- 3) Do not adopt Ordinance 2014-09



**Background/History:**

In August 2013, a local attorney and the ACLU filed a lawsuit against the Flagstaff City Attorney and the Police Chief alleging the state statute prohibiting loitering to beg was unconstitutional. After legal review, it was determined in fact the statute found under ARS 13-2905 (A)(3) was believed to be a violation of free speech. Following recommendations by the City Attorney and Police Chief, the Flagstaff City Council approved a settlement whereby the Flagstaff Police Department would refrain immediately from taking enforcement action for loitering to beg. On October 11, 2013, the Arizona Criminal Justice Commission advised all law enforcement agencies in the state that the United States District Court had declared ARS 13-2905(A)(3) to be unconstitutional and void under the first and fourteenth amendments of the Constitution. The statute was declared unenforceable statewide.

Each year, the Flagstaff Police Department receives numerous calls from concerned citizens who have been approached by individuals begging for assistance. In one recent 13 month period, the police department recorded 642 calls for service where the event code was classified as loitering. The event code for loitering and "vagrancy" is the same, so not all 642 calls received were specifically for loitering to beg, however during that same 13 month period, the Flagstaff Police Department made 141 arrests for panhandling under 13-2905A3 prior to the legal challenge of this statute. Statistics indicate a large number of citizens contact the police annually with concerns regarding this behavior. A number of these arrests involved activity described by the victim as "aggressive" at the time the panhandling occurred. A case review indicates it is apparent many subjects who panhandle tend to target females or the elderly resulting in many of these victims describing the contact as causing fear. In two separate case, children under the age of ten were solicited.

The Flagstaff Police Department believes that citizen concerns regarding loitering to beg on private property can be addressed through a partnership with business owners. Officers can be granted authority to "trespass" subjects on private property at the business owner or managers direction. If a business owner believes loitering to beg is bad for business, authority may be granted allowing officers to trespass individuals involved in this conduct. Notice shall be given upon first contact, warning the individual this conduct is not allowed and the officer will trespass the individual from that property. Recent changes in state statute on trespassing now allows the officers to "trespass" at the direction of the business owner. Notice of trespass will be documented in our records system, accessible to officers in the field. Future or subsequent contacts with the same individual at that location could result in an arrest for trespass.

Incidents occurring on school grounds can be enforced under the existing provision remaining in the State loitering statute. Private schools and churches are also private property, and as such, solicitation can be effectively addressed with the trespassing statute.

With trespassing tools in place on private property, the challenge will be in addressing certain behaviors involving aggressive solicitation on public property.

During legal review, it has been determined that several municipalities in the state of Arizona have enacted local ordinances to address aggressive solicitation. These ordinances have successfully addressed citizens concerns by prohibiting behavior or conduct, as opposed to the content of speech.

The proposed ordinance on aggressive solicitation is attached. It contains many of the same elements of several of the ordinances reviewed from other municipalities. Several options are open for Council discussion, most notably distances listed prohibiting certain behavior in proximity to commercial institutions.

**Key Considerations:**

A draft bill on Aggressive Solicitation is being proposed in the State House of Representatives. A copy of that bill is attached. Much of the same prohibitions appear in this draft legislation, but it is of course unknown at this time whether this bill will gain the support this legislative session. The issue of panhandling in Flagstaff is most definitely seasonal, with significant increases in calls for service and response to panhandling complaints experienced during spring and summer months. We expect calls for service regarding loitering incidents will begin to dramatically increase in late April.

There are also concerns with the legality of prohibiting solicitation on medians. Currently there is an existing state law under A.R.S. Section 13-2906 "Obstructing a Highway or Other Public Thoroughfare", that applies if a person recklessly interferes with the passage of any highway by creating an unreasonable inconvenience or hazard. The 9th Circuit Court of Appeals has found that attempts to set prohibitions on day laborers who were soliciting work and obstructing traffic while doing so unconstitutional. Recently the U.S. District Court in Maine struck down a Portland, Maine City Ordinance prohibiting soliciting on medians. The Court first found that a median is a public forum for the purposes of the First Amendment free speech analysis. The Court then went on to state that because the City Council and Chief of Police in Portland interpreted the ordinance to allow persons to go on the median to place campaign signs, that the ordinance was unconstitutional as it was not reasonably related to the State's interest of safety concern. Therefore, if a local ordinance is considered prohibiting solicitation on medians, that ordinance would have to prohibit all activity on medians including the placement of signs in order to possibly be found constitutional. However given the 9th Circuit ruling previously mentioned, the possibility exists the courts may find any prohibition of solicitation on medians unconstitutional due to the existence of the more applicable A.R.S. section 13-2906, "Obstructing a Public Thoroughfare".

#### **Community Benefits and Considerations:**

Adoption of this ordinance will provide a tool for law enforcement when concerns are received by citizens regarding aggressive solicitation, or from business owners who have concerns about loitering in proximity of commercial institutions.

#### **Community Involvement:**

**Inform:** There have been several articles in the AZ Daily Sun in the past several months detailing the court decision regarding the repeal of ARS 2905(A)(3) and the impacts on enforcement of loitering to beg here locally. Specifically an article appeared in the Daily Sun on October 5, 2013, as well as an editorial by the Daily Sun on September 19, 2013. On January 11, 2013, the Daily Sun carried a headline story describing in detail the proposed state law banning aggressive solicitation.

**Consult:** The Daily Sun also carried a small story prior to the work session on 2-11-2013 where City staff provided City Council with a power point presentation seeking direction on a proposed ordinance banning aggressive solicitation. Citizens had the opportunity at this work session to speak on this issue during public forum. One citizen showed at the work session and filled out a comment card in support of the proposed ordinance. No citizens spoke on this issue at that work session.

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**Attachments:**     House Bill on aggressive loitering  
                             Power Point  
                             Ord. 2014-09

REFERENCE TITLE: aggressive solicitation; offense

State of Arizona  
House of Representatives  
Fifty-first Legislature  
Second Regular Session  
2014

# HB 2024

Introduced by  
Representative Kavanagh

## AN ACT

AMENDING SECTION 13-2905, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 29, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-2914; RELATING TO OFFENSES AGAINST PUBLIC ORDER.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-2905, Arizona Revised Statutes, is amended to  
3 read:

4 13-2905. Loitering; classification

5 A. A person commits loitering if such person intentionally:

6 1. Is present in a public place and in an offensive manner or in a  
7 manner likely to disturb the public peace solicits another person to engage  
8 in any sexual offense.

9 2. Is present in a transportation facility and after a reasonable  
10 request to cease or unless specifically authorized to do so solicits or  
11 engages in any business, trade or commercial transactions involving the sale  
12 of merchandise or services.

13 ~~3. Is present in a public place to beg, unless specifically authorized~~  
14 ~~by law.~~

15 ~~4.~~ 3. Is present in a public place, unless specifically authorized by  
16 law, to gamble with any cards, dice or other similar gambling devices.

17 ~~5.~~ 4. Is present in or about a school, college or university building  
18 or grounds after a reasonable request to leave and either does not have any  
19 reason or relationship involving custody of or responsibility for a pupil or  
20 student or any other specific legitimate reason for being there or does not  
21 have written permission to be there from anyone authorized to grant  
22 permission.

23 ~~6.~~ 5. Except as provided in section 13-3969, subsection A, solicits  
24 bail bond business inside a court building or immediately around or near the  
25 entrance of a county or city jail. For the purposes of this paragraph,  
26 "solicit" includes handing out business cards or any printed material or  
27 displaying any electronic devices related to bail bonds, verbally asking a  
28 person if the person needs a bail bond and recruiting another person to  
29 solicit bail bond business.

30 B. Loitering under subsection A, paragraph ~~5~~ 4 is a class 1  
31 misdemeanor. Loitering under subsection A, paragraphs 1, 2, ~~3~~, ~~4~~ and ~~6~~ 5 is  
32 a class 3 misdemeanor.

33 Sec. 2. Title 13, chapter 29, Arizona Revised Statutes, is amended by  
34 adding section 13-2914, to read:

35 13-2914. Aggressive solicitation; classification; definitions

36 A. IT IS UNLAWFUL FOR A PERSON TO SOLICIT ANY MONEY OR OTHER THING OF  
37 VALUE OR SOLICIT THE SALE OF GOODS OR SERVICES:

38 1. WITHIN FIFTEEN FEET OF ANY BANK ENTRANCE OR EXIT OR ANY AUTOMATED  
39 TELLER MACHINE.

40 2. IN ANY PUBLIC TRANSPORTATION VEHICLE OR FROM ANY PERSON WHO IS  
41 WAITING WITHIN TEN FEET OF A SIGN DESIGNATING A BUS STOP. THIS PARAGRAPH  
42 DOES NOT APPLY TO THE OPERATOR OF A PUBLIC TRANSPORTATION VEHICLE WHO  
43 REQUESTS OR ACCEPTS PAYMENT OF A FARE.

44 3. IN A PUBLIC AREA BY:

1 (a) INTENTIONALLY, KNOWINGLY OR RECKLESSLY MAKING ANY PHYSICAL CONTACT  
2 WITH OR TOUCHING ANOTHER PERSON IN THE COURSE OF THE SOLICITATION WITHOUT THE  
3 PERSON'S CONSENT.

4 (b) APPROACHING OR FOLLOWING THE PERSON BEING SOLICITED IN A MANNER  
5 THAT IS INTENDED OR IS LIKELY TO CAUSE A REASONABLE PERSON TO FEAR IMMINENT  
6 BODILY HARM TO ONESELF OR ANOTHER OR DAMAGE TO OR LOSS OF PROPERTY OR THAT IS  
7 REASONABLY LIKELY TO INTIMIDATE THE PERSON BEING SOLICITED INTO RESPONDING  
8 AFFIRMATIVELY TO THE SOLICITATION.

9 (c) CONTINUING TO SOLICIT THE PERSON AFTER THE PERSON BEING SOLICITED  
10 HAS CLEARLY COMMUNICATED A REQUEST THAT THE SOLICITATION STOP.

11 (d) INTENTIONALLY, KNOWINGLY OR RECKLESSLY OBSTRUCTING THE SAFE OR  
12 FREE PASSAGE OF THE PERSON BEING SOLICITED OR REQUIRING THE PERSON TO TAKE  
13 EVASIVE ACTION TO AVOID PHYSICAL CONTACT WITH THE PERSON MAKING THE  
14 SOLICITATION. THIS SUBDIVISION DOES NOT APPLY TO ACTS THAT ARE AUTHORIZED AS  
15 AN EXERCISE OF ONE'S CONSTITUTIONAL RIGHT TO PICKET OR PROTEST.

16 (e) INTENTIONALLY, KNOWINGLY OR RECKLESSLY USING OBSCENE OR ABUSIVE  
17 LANGUAGE OR GESTURES THAT ARE INTENDED OR LIKELY TO CAUSE A REASONABLE PERSON  
18 TO FEAR IMMINENT BODILY HARM OR THAT ARE REASONABLY LIKELY TO INTIMIDATE THE  
19 PERSON BEING SOLICITED INTO RESPONDING AFFIRMATIVELY TO THE SOLICITATION.

20 B. A VIOLATION OF THIS SECTION IS A PETTY OFFENSE, EXCEPT THAT A  
21 SECOND OR SUBSEQUENT VIOLATION OF THIS SECTION IS A CLASS 3 MISDEMEANOR.

22 C. FOR THE PURPOSES OF THIS SECTION:

23 1. "AUTOMATED TELLER MACHINE" HAS THE SAME MEANING PRESCRIBED IN  
24 SECTION 6-101.

25 2. "BANK" MEANS A BANK, CREDIT UNION OR OTHER SIMILAR FINANCIAL  
26 INSTITUTION.

27 3. "PUBLIC AREA" MEANS AN AREA THAT THE PUBLIC OR A SUBSTANTIAL GROUP  
28 OF PERSONS HAS ACCESS TO AND INCLUDES ALLEYS, BRIDGES, BUILDINGS, DRIVEWAYS,  
29 PARKING LOTS, PARKS, PLAYGROUNDS, PLAZAS, SIDEWALKS AND STREETS OPEN TO THE  
30 GENERAL PUBLIC, AND THE DOORWAYS AND ENTRANCES TO BUILDINGS AND DWELLINGS AND  
31 THE GROUNDS ENCLOSING THEM.

32 4. "PUBLIC TRANSPORTATION VEHICLE" MEANS ANY VEHICLE THAT IS USED FOR  
33 THE TRANSPORTATION OF PASSENGERS ON SCHEDULED ROUTES ON AN INDIVIDUAL  
34 PASSENGER FARE-PAYING BASIS.

35 5. "SOLICIT" MEANS USING ANY MEANS OF COMMUNICATION, INCLUDING BY  
36 SPOKEN, WRITTEN OR PRINTED WORD, TO REQUEST AN IMMEDIATE DONATION OR EXCHANGE  
37 OF MONEY OR OTHER THING OF VALUE FROM ANOTHER PERSON REGARDLESS OF THE  
38 SOLICITOR'S PURPOSE OR INTENDED USE OF THE MONEY OR OTHER THING OF VALUE.

# Definition of Aggressive Manner

- (a) Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent; or
- (b) Approaching or following the person being solicited, if the conduct is:
  - 1) intended to or is likely to cause a reasonable person to fear bodily harm to oneself or another, or damage to or loss of property or the commission of a criminal act upon the person or property in the person's possession; or
  - 2) is intended to or is reasonably likely to intimidate a reasonable person being solicited into responding affirmatively to the solicitation; or

# Definition of Aggressive Manner

- (c) Continuing to solicit from a person within five feet (5') of that person being solicited after the person has made a negative response to such solicitation; or
- (d) Intentionally, knowingly or recklessly obstructing the safe or free passage of the person being solicited, or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's constitutional right to picket or legally protest, and acts authorized by a permit issued by the City, shall not constitute obstruction of pedestrian or vehicular traffic; or
- (e) Intentionally or recklessly using obscene or abusive language or gestures:
  - (1) intended to or likely to cause a reasonable person to fear bodily harm or the commission of a criminal act upon the person or property in the person's possession; or
  - (2) intended to or is reasonably likely to intimidate a reasonable person into responding affirmatively to the solicitation.

# Other Definitions

- AUTOMATED TELLER MACHINE FACILITY
- PUBLIC AREA
- SOLICIT: To request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value. The solicitation may be, without limitation, by the spoken, written or printed word, or by other means of communication.
- PUBLIC TRANSPORTATION VEHICLE
- BANK



# Prohibited Acts

It shall be unlawful for any person or group to solicit money or other things of value, or to solicit the sale of goods or services:

- (1) In an aggressive manner in a public area; or
- (2) In any public transportation vehicle or from any persons within fifteen feet (15') of any transit stop, bus stop, taxi stand, train station or the inside of the train station; or
- (3) Within fifteen feet (15') of any entrance or exit of any bank, financial institution, automated teller machine facility, without the consent of the owner or other person legally in possession of such facility; or
- (4) Immediately adjacent to the entrance of a business in a manner that physically interferes with ingress or egress to that business entrance; or

# Prohibited Acts

- (5) Within fifteen feet (15') From persons engaging in any financial transaction; or
- (6) Within fifteen feet (15') from persons inside a business, including a patio area, except with the consent of the business owner; or
- (7) On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property.
- (8) From any person under the age of sixteen (16) years who is unaccompanied by an adult.
- (C) Penalty: A violation of this section shall be a class three (3) misdemeanor.

## **ORDINANCE NO. 2014-09**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FLAGSTAFF, AMENDING THE FLAGSTAFF CITY CODE, TITLE 6, *POLICE REGULATIONS*, CHAPTER, 1 *GENERAL OFFENSES*, DIVISION 1, BY ADDING A NEW SECTION 1 RELATING TO AGGRESSIVE SOLICITATION; PROVIDING FOR PENALTY, SEVERABILITY, AUTHORITY FOR CLERICAL CORRECTIONS, AND ESTABLISHING AN EFFECTIVE DATE**

#### **RECITALS:**

WHEREAS, Article XIII, Section 8 of the Flagstaff City Charter gives the City Council the plenary power to enact and make all proper and necessary ordinances to care out and give effect to the implied and express powers granted in the Charter and thereby protect and safeguard the rights, interests, safety, morality, health and welfare of the City and its inhabitants; and

WHEREAS, the City Council finds that enacting this aggressive solicitation ordinance protects that rights, interests, safety and welfare of the inhabitants of the City; and

WHEREAS, Article XIII, Section 7 of the Flagstaff City Charter provides that violation of any ordinance of the City is a misdemeanor that may be prosecuted by the authorities of the City in the name of the State of Arizona; and

WHEREAS, Article VII, Section 5 of the Flagstaff City Charter requires the Council to act by ordinance when it imposes or provides for imposing fines or other penalties.

#### **ENACTMENTS:**

#### **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:**

##### **SECTION 1. In General.**

The Flagstaff City Code, Title 6, Police Regulations, Chapter 1, General Offenses, Division 1, Section 1 is hereby added as set forth below:

##### **6-01-01-01 AGGRESSIVE SOLICITATION**

A. For the purposes of this Chapter the following terms shall mean:

1. **AGGRESSIVE MANNER:** Means and includes either individually or as a group:
  - a. Intentionally or recklessly making any physical contact with or touching another person in the course of the solicitation without the person's consent; or
  - b. Approaching or following the person being solicited, if the conduct is:

- (1) intended to or is likely to cause a reasonable person to fear bodily harm to oneself or another, or damage to or loss of property or the commission of a criminal act upon the person or property in the person's possession; or
    - (2) is intended to or is reasonably likely to intimidate a reasonable person being solicited into responding affirmatively to the solicitation; or
  - c. Continuing to solicit from a person within five feet (5') of that person being solicited after the person has made a negative response to such solicitation; or
  - d. Intentionally, knowingly or recklessly obstructing the safe or free passage of the person being solicited, or requiring the person, or the driver of a vehicle, to take evasive action to avoid physical contact with the person making the solicitation. Acts authorized as an exercise of one's constitutional right to picket or legally protest, and acts authorized by a permit issued by the City, shall not constitute obstruction of pedestrian or vehicular traffic; or
  - e. Intentionally or recklessly using obscene or abusive language or gestures:
    - (1) intended to or likely to cause a reasonable person to fear bodily harm or the commission of a criminal act upon the person or property in the person's possession; or
    - (2) intended to or is reasonably likely to intimidate a reasonable person into responding affirmatively to the solicitation.
- 2. AUTOMATED TELLER MACHINE FACILITY: The area comprised of one or more automatic or automated teller machines, and any adjacent space which is made available to banking customers after regular banking hours.
- 3. PUBLIC AREA: An area to which the public or a substantial group of persons has access, and includes, but is not limited to, alleys, bridges, buildings, driveways, parking lots, parks, playgrounds, plazas, sidewalks, and streets open to the general public, and the doorways and entrances to buildings and dwellings, and the grounds enclosing them.
- 4. SOLICIT: To request an immediate donation of money or other thing of value from another person, regardless of the solicitor's purpose or intended use of the money or other thing of value. The solicitation may be, without limitation, by the spoken, written or printed word, or by other means of communication.
- 5. PUBLIC TRANSPORTATION VEHICLE: Any vehicle used for the transportation of passengers on scheduled routes on an individual passenger fare-paying basis.
- 6. BANK: A bank Credit Union or other similar financial institution.

- B. It shall be unlawful for any person or group to solicit money or other things of value, or to solicit the sale of goods or services:
1. In an aggressive manner in a public area; or
  2. In any public transportation vehicle or from any persons within fifteen feet (15') of any transit stop, bus stop, taxi stand, train station platform or the inside of the train station; or
  3. Within fifteen feet (15') of any entrance or exit of any bank, financial institution, automated teller machine facility, without the consent of the owner or other person legally in possession of such facility; or
  4. Immediately adjacent to the entrance of a business in a manner that physically interferes with ingress or egress to that business entrance; or
  5. Within fifteen feet (15') of persons engaging in any financial transaction; or
  6. Within fifteen feet (15') from persons inside a business, including a patio area, except with the consent of the business owner; or
  7. On private property if the owner, tenant, or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property.
  8. From any person under the age of sixteen (16) years who is unaccompanied by an adult.

#### SECTION 2. Penalty.

Any person convicted of a violation of this ordinance is guilty of a class 3 misdemeanor.

#### SECTION 3. Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed.

#### SECTION 4. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

#### SECTION 5. Clerical Corrections.

The City Clerk is hereby authorized to correct typographical and grammatical errors, as well as errors of wording and punctuation, as necessary related to this ordinance as amended herein, and to make formatting changes needed for purposes of clarity and form, or consistency within thirty (30) days following adoption by the City Council.

SECTION 6. Effective Date.

This ordinance shall become effective thirty (30) days following adoption by the City Council.

PASSED AND ADOPTED by the City Council and approved by the Mayor of the City of Flagstaff this 15th day of April, 2014.

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MAYOR

ATTEST:

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CITY CLERK

APPROVED AS TO FORM:

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CITY ATTORNEY

**CITY OF FLAGSTAFF**  
**STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Stephanie Smith, Executive Assistant to City Manager  
**Date:** 03/24/2014  
**Meeting Date:** 04/01/2014



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**TITLE**

**Road Repair and Street Safety Initiative Update**

**RECOMMENDED ACTION:**

No Recommended Action - Discussion Only

**INFORMATION**

The update on the Road Repair and Street Safety Initiative will include a report out on the City Manager's Citizen Review Committee. The City Manager will review relevant background information, the final recommendation approved by the Citizen Committee and comments received from the Transportation Commission. The presentation will conclude with a discussion on next steps.

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**Attachments:** Citizen Review Committee  
Presentation

# Road Repair and Street Safety Initiative

## Resolution of the Citizen Review Committee

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Whereas, the gas tax has not increased in 22 years; and

Whereas, state collected and distributed Highway User Revenue Fund revenues continue to decline as fuel efficiencies increase; and

Whereas, sweeps for funding of the State Highway Patrol from HURF monies has exacerbated the impact of declining HURF revenues on ADOT and local governments, including the City of Flagstaff (and Coconino County); and

Whereas, these revenue shortfalls have forced the City of Flagstaff to limit funding for street preservation and road repairs; and

Whereas, the constrained city street and road repair budgets have resulted in a backlog of street preservation and road repairs; and

Whereas the weather in the region poses incremental burdens on street preservation and maintenance, due to the limited work season and the harsh and numerous winter freeze / thaw cycles; and

Whereas, street preservation and road repair projects funding of 16 million dollars approved by City voters in 2010 reduced, but did not eliminate the backlog; and

Whereas, the City of Flagstaff has implemented significant cost savings efficiencies street maintenance in order to continue a minimal street preservation programming; and

Whereas, additional transfers of 1 million ongoing dollars by the City Council from the General Fund to street preservation projects in fiscal year 2014 reduced, but did not eliminate the backlog; and

Whereas 55% of City residents in a recent survey indicate that good street and road maintenance is important to them; and

Whereas 62% of residents in the recent surveys support a small road repair tax over a long period of time; and

Whereas, in 2000 the voters of Flagstaff overwhelmingly supported a series of street, bridge and traffic improvements that are being funded by sales taxes that run through 2020; and

Whereas the expiration of those street and bridge taxes may provide an opportunity for the City to propose a future series of street and road improvements for traffic mitigation and circulation enhancement; and



Whereas, facing a growing backlog of street preservation and maintenance projects, the City Council has directed the City Manager to study the problem and recommend potential approaches to fund the shortfall; and

Whereas, as a key component of the City Manager's preparation of a response to the Council, he appointed this Citizens' Review Committee (CRC) to provide him with advice and recommendations; and

Whereas the CRC has reviewed, analyzed, and discussed the wide range of issues effecting the City's street preservation and maintenance situation; and

Whereas, it appears that current available funding cannot, alone, resolve the existing street preservation and maintenance backlog; and

Whereas, the estimated 37 million dollar backlog will grow to over 57 million dollars in five years if not addressed and over 68 million dollars in ten years.

Therefore, the CRC hereby recommends:

That the City Manager recommends to the City Council that it refer a 0.508% increase in the City imposed sales tax for a period of 20 years to fund:

- All necessary annual operations and maintenance pavement preservation to maintain the improved condition; and

- Repair of all City streets with an overall condition index (OCI) of less than 70 (out of 100); and

- Repair all water, sewer, and stormwater projects in conjunction with such repairs to streets with an OCI less than 50; and

- Selected bicycle improvements, bus pullouts, FUTS improvements, and pedestrian crossing improvements; and

- Selected congestion relief projects along Milton Road; and further

That the City Manager recommends to the City Council that it impose additional property taxes to replace selected missing sidewalks in conjunction with repairs to streets with an OCI less than 70; further

Resolved by a consensus of the members of the Citizen Review Committee present on March 13, 2014.

# Road Repair and Street Safety Initiative

April 1, 2014



# ROAD REPAIR AND STREET SAFETY INITIATIVE

- Review of Conditions
- Introduction to Pavement Preservation
- Economic Impacts of Roads
- Taxes and Financing Tools
- Citizen Survey
- Citizen Review Committee Recommendation
- Transportation Commission Recommendation



# ROAD REPAIR AND STREET SAFETY INITIATIVE

- The Flagstaff City Council directed staff to develop a funding proposal that will address the backlog of road repaving, repairs and maintenance as well as safety improvements to the City's transportation infrastructure.

## Feedback:

- Citizen Review Committee Recommendation
- Transportation Commission
- City Council



# ROAD REPAIR AND STREET SAFETY INITIATIVE CONDITIONS AND BACKGROUND

## Overview of Conditions:

- No inflation adjustments to gas tax
- No percentage of total average price per gallon
- HURF sweeps
- Decreased revenues due to more efficient vehicles
- Costs will increase significantly with no action
- Increase in the miles of roads to maintain
- Increase in the use of roads
- Increase to maintenance costs



# ROAD REPAIR AND STREET SAFETY INITIATIVE CONDITIONS AND BACKGROUND

What if Gas Tax was adjusted for inflation?

	City Gas Tax Revenues	Inflation Adjusted Revenue	Revenue Uncollected
FY 14 Projected	5,956,000	8,040,000	2,084,000

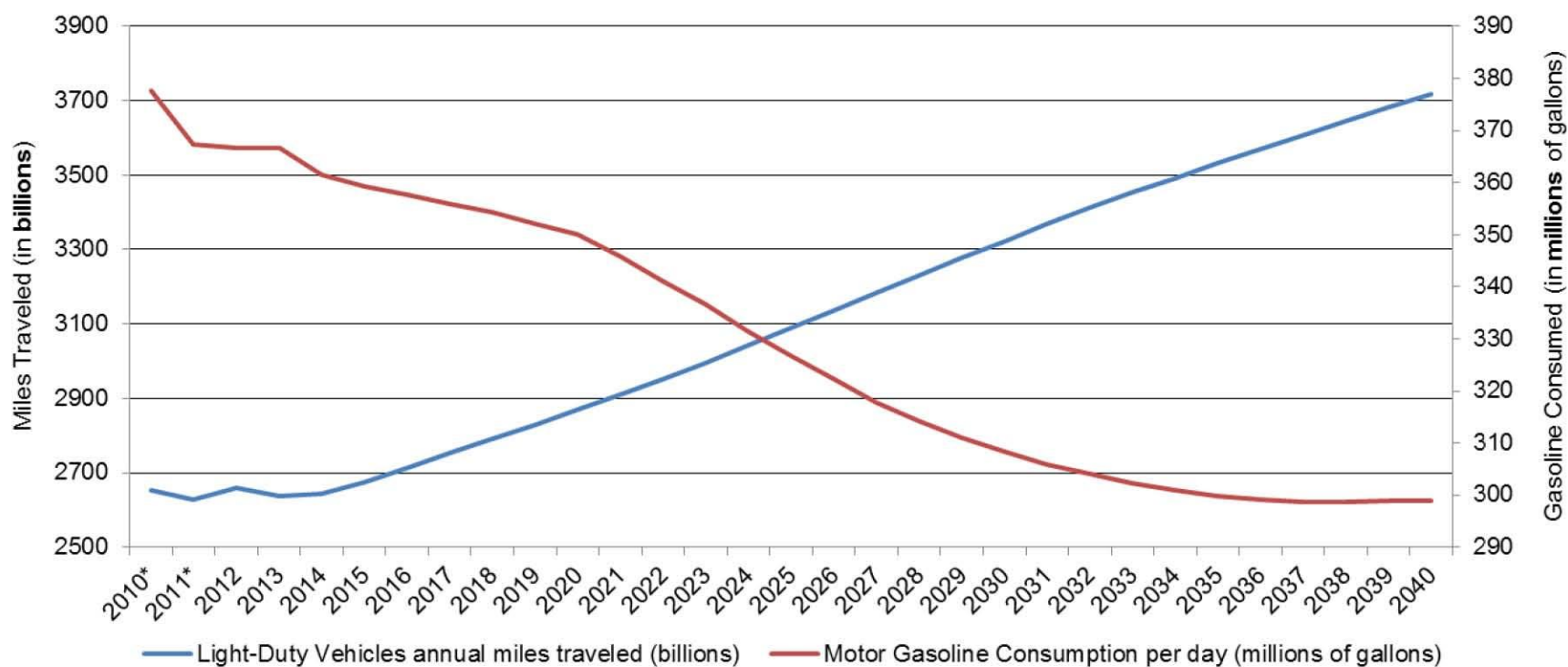
What if the Gas Tax was a % Per Gallon vs. Flat Rate?

	Gas Price and Revenue Generated
1991	Average Price \$1.25/gallon /\$0.18 tax
2013	Average Price \$3.40/gallon /\$0.49 tax
2013 Revenue based on % of Each Gallon	\$10,974,000



# Projected National Trend

## Projected Vehicle Miles Traveled Compared to Gallons of Motor Gasoline Consumed[^]



[^]U.S. Energy Information Administration (EIA) Annual Energy Review 2011; Reference Case Tables A7 & A11. Accessed at: <http://www.eia.gov/analysis/projection-data.cfm#annualproi>

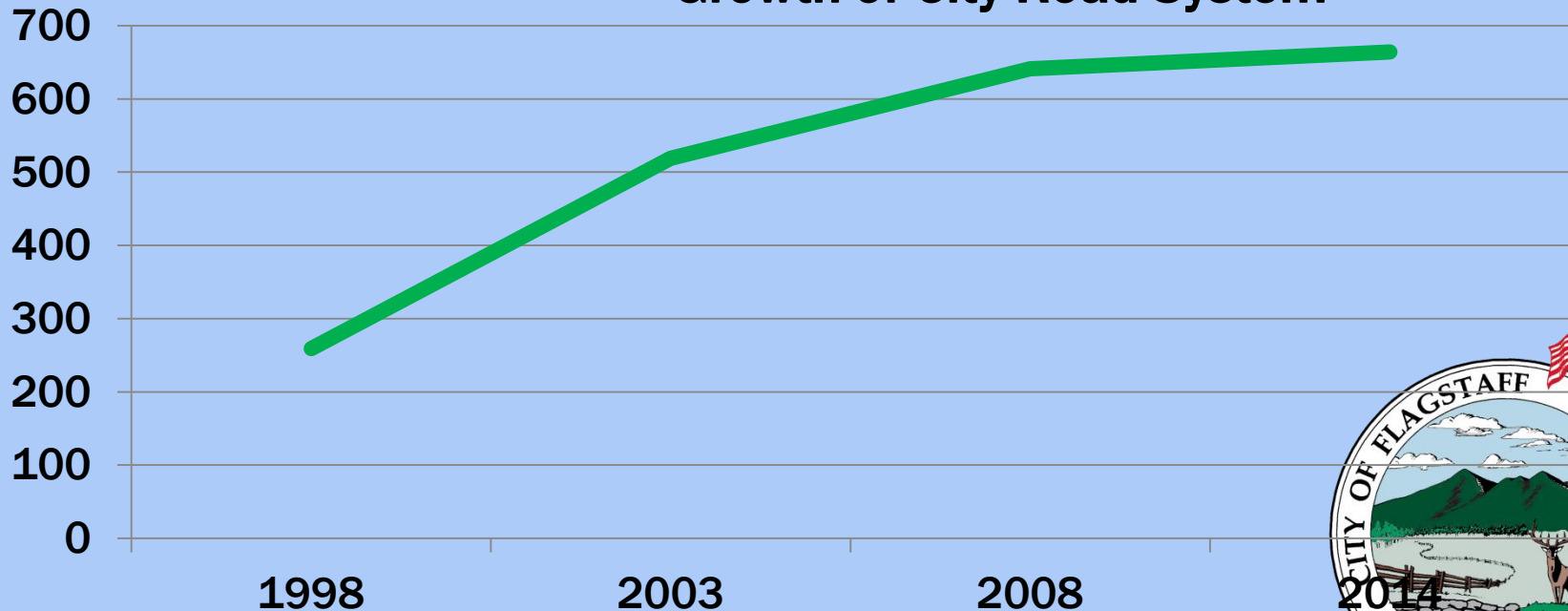
*Represents actual data

# ROAD REPAIR AND STREET SAFETY INITIATIVE

## CONDITIONS AND BACKGROUND

- Over 660 lane miles of roads
- 34% increase in last 15 years

**Growth of City Road System**



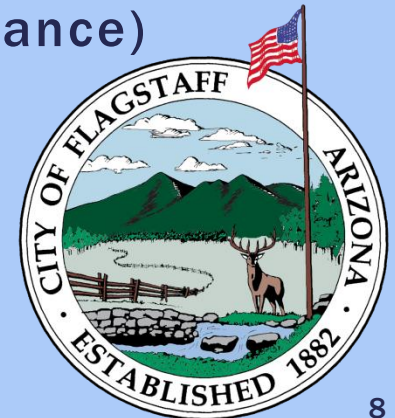


# ROAD REPAIR AND STREET SAFETY INITIATIVE CONDITIONS AND BACKGROUND

What does HURF (The Gas Tax) Fund?

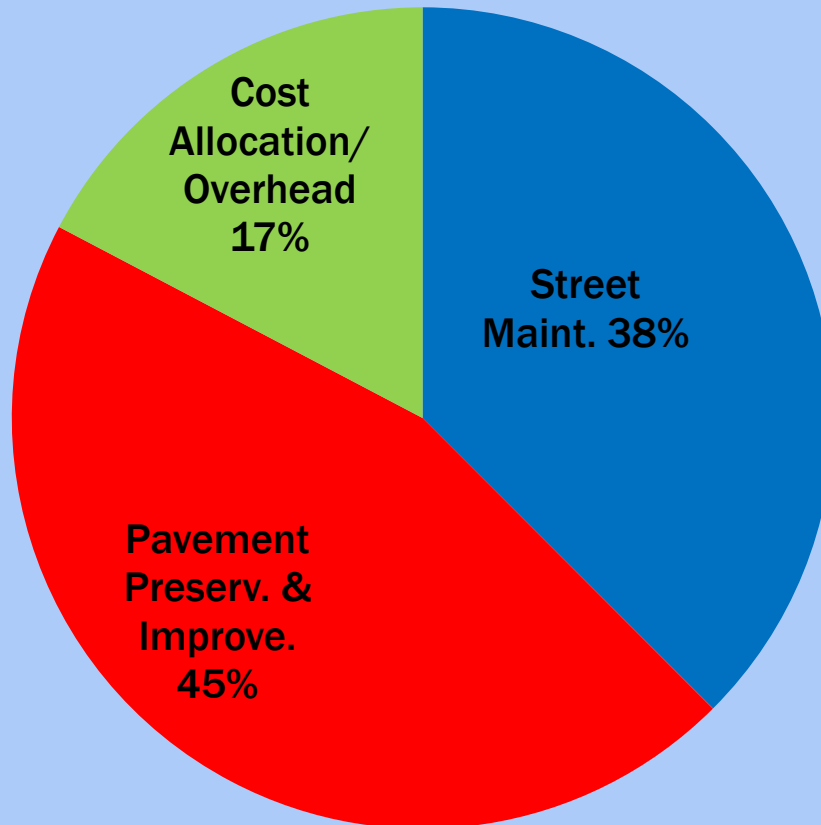
- Street Sweeping
- Snow Operations
- Administration
- Signs & Markings
- Street Maintenance
- Training
- Street Lighting (Energy and Maintenance)
- Traffic Signal Maintenance (Energy and Maintenance)
- Minor Transportation Improvements
- Sidewalk Replacements

**Maintenance**

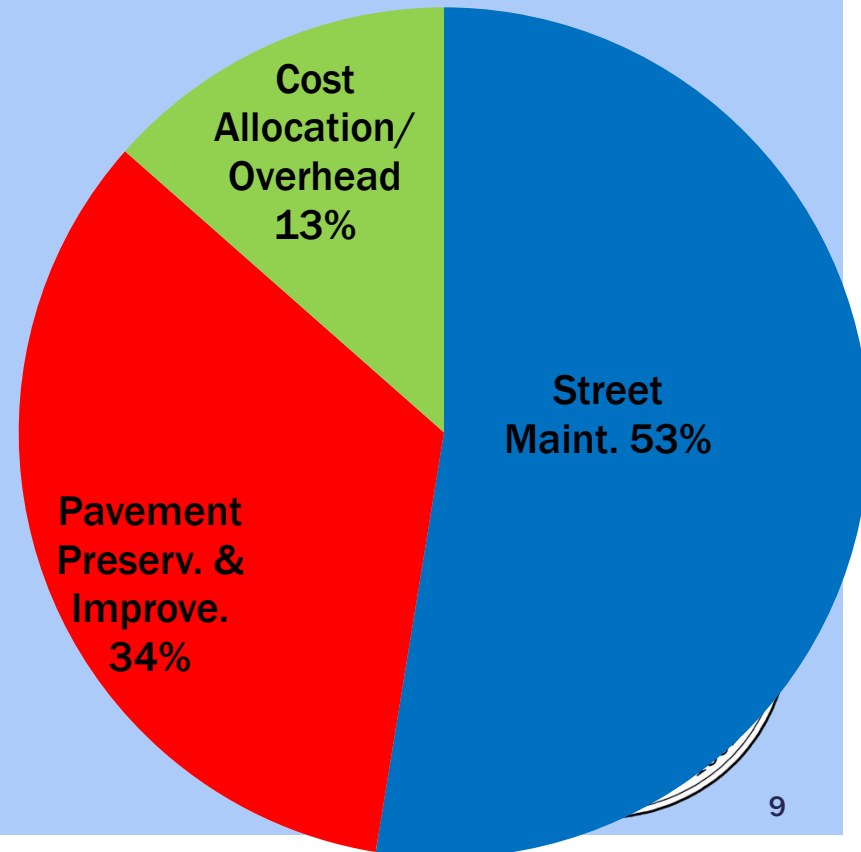


# ROAD REPAIR AND STREET SAFETY INITIATIVE CONDITIONS AND BACKGROUND

**2004 - HURF Funded Programming**  
**\$8,813,362**

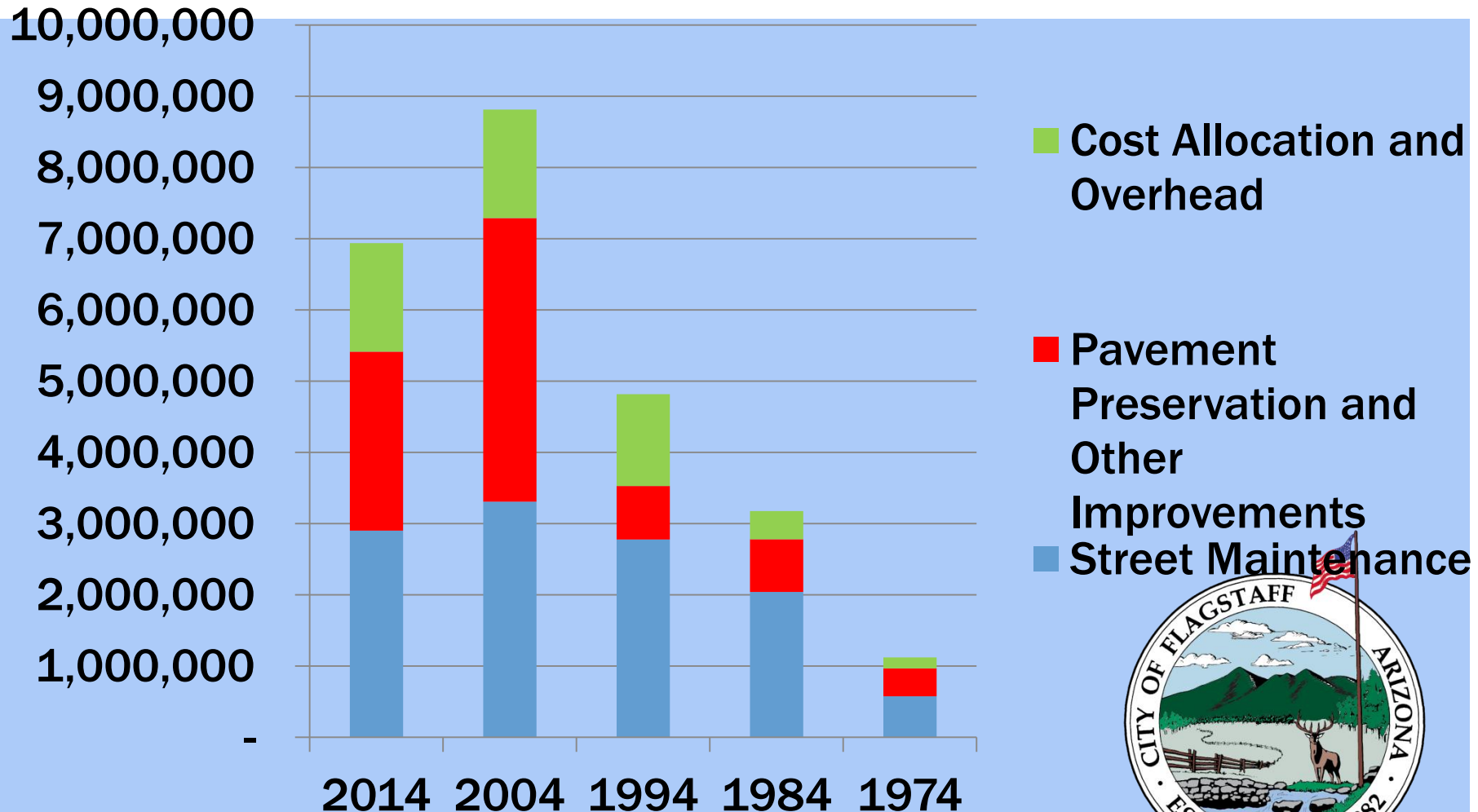


**2014 - HURF Funded Programming**  
**\$7,400,657**

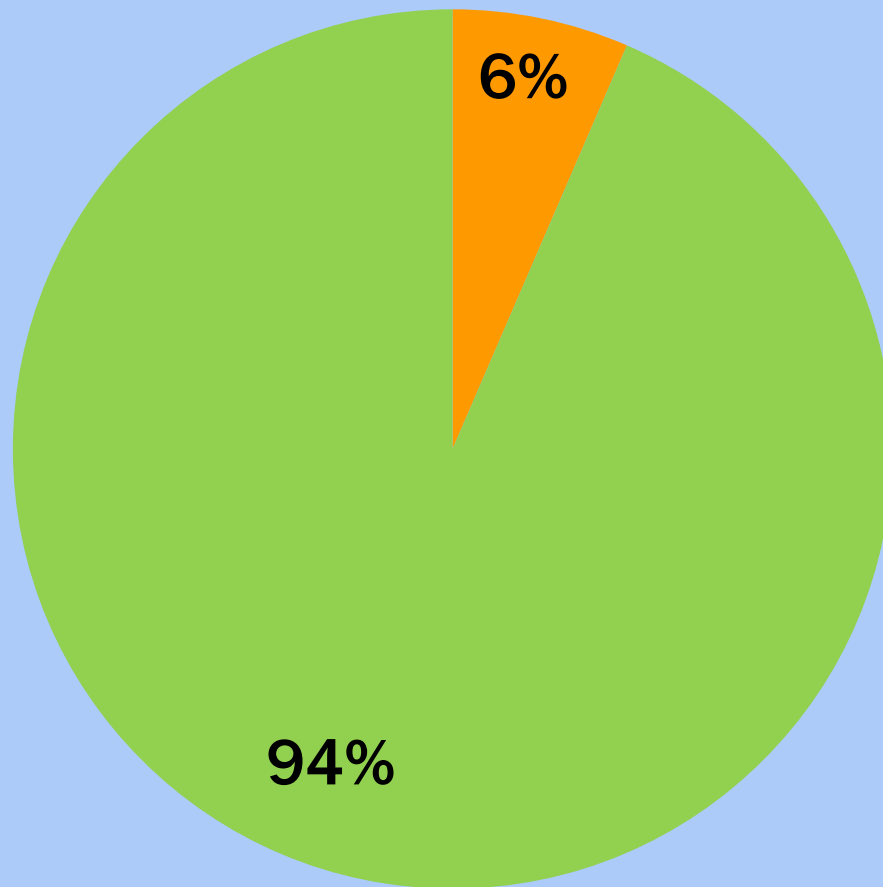


# ROAD REPAIR AND STREET SAFETY INITIATIVE

## CONDITIONS AND BACKGROUND



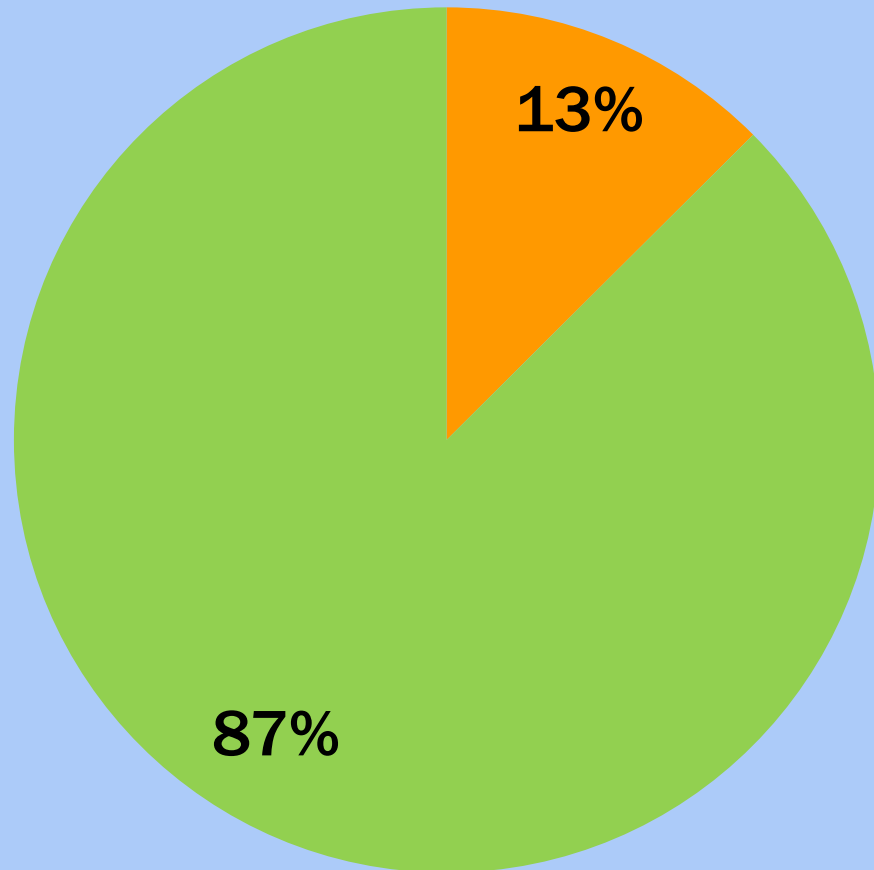
# 2014 – HURF FUNDING COMPARED TO CITY BUDGET



- Total HURF Funding
- Total Budget Less Capital



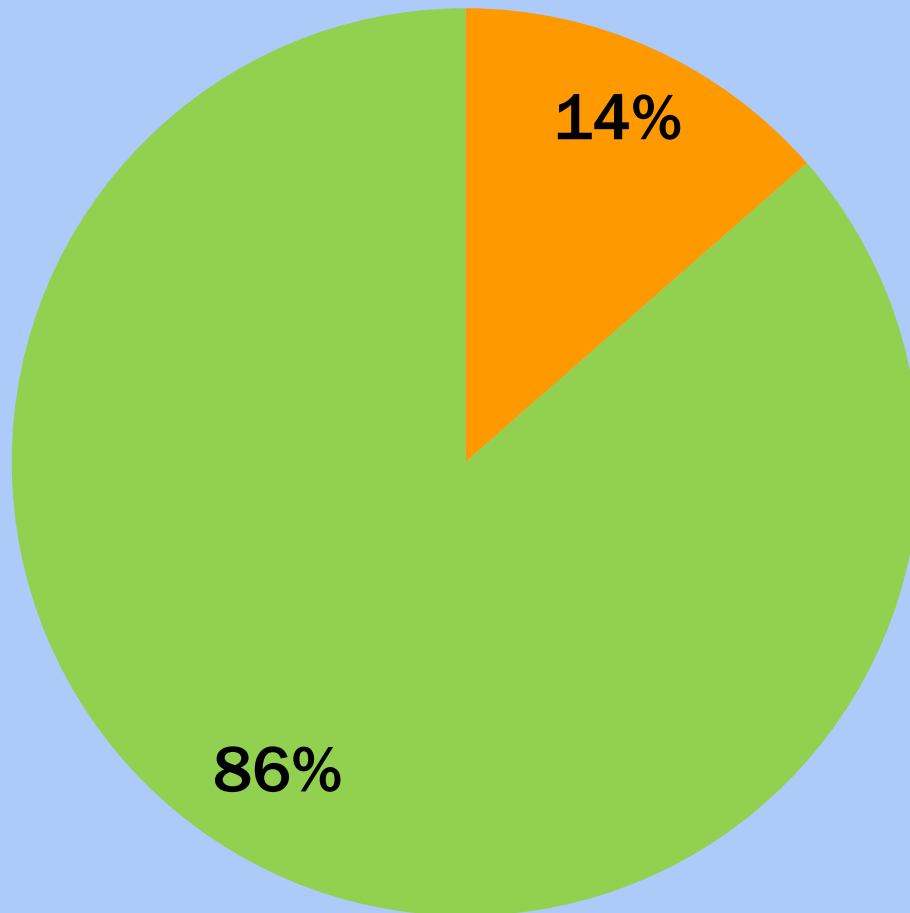
# 2004 – HURF FUNDING COMPARED TO CITY BUDGET



- Total HURF Funding
- Total Budget Less Capital



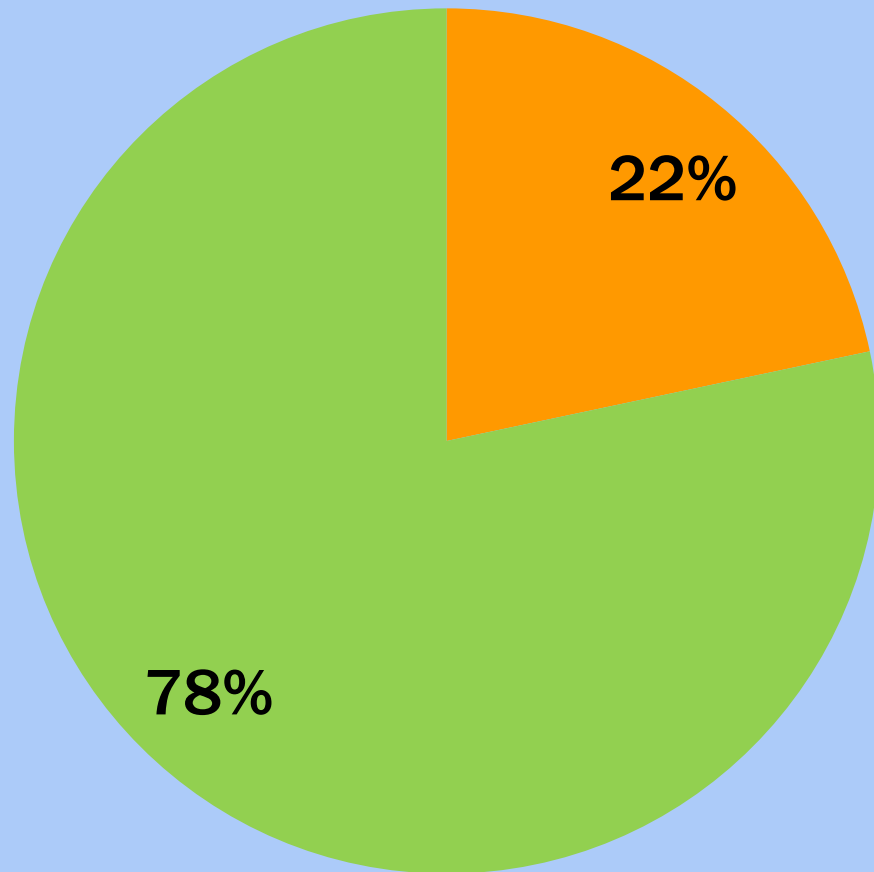
# 1994 – HURF FUNDING COMPARED TO CITY BUDGET



- Total HURF Funding
- Total Budget Less Capital



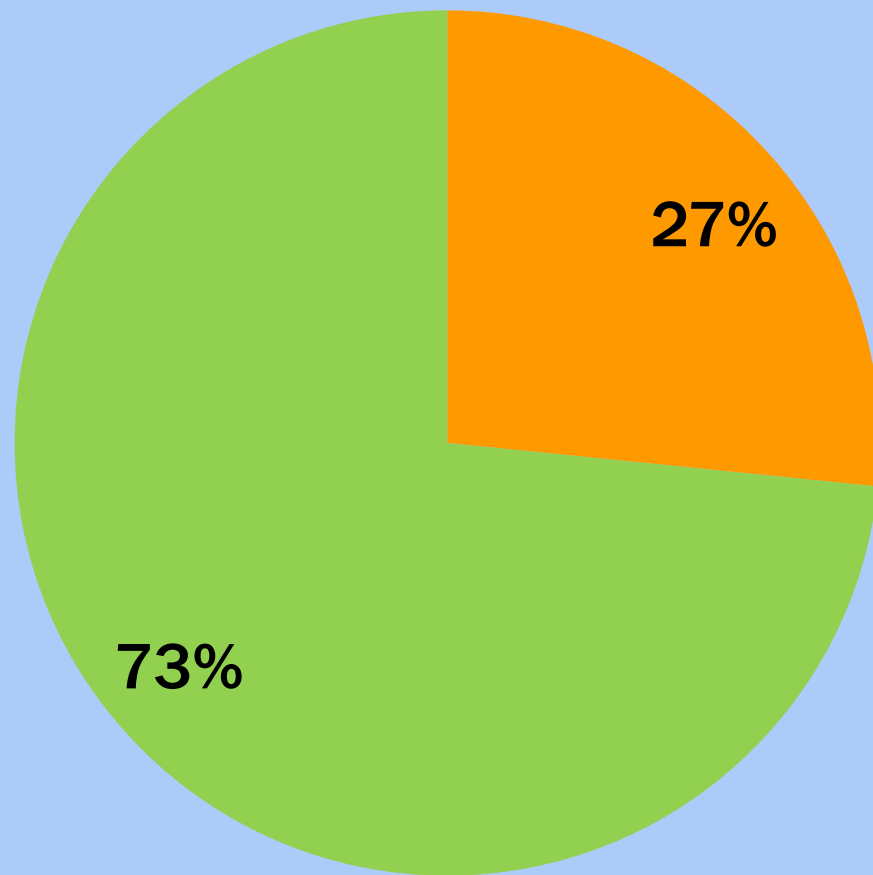
# 1984 – HURF FUNDING COMPARED TO CITY BUDGET



- Total HURF Funding
- Total Budget Less Capital



# 1974 – HURF FUNDING COMPARED TO CITY BUDGET



- Total HURF Funding
- Total Budget Less Capital





# ROAD REPAIR AND STREET SAFETY INITIATIVE CONDITIONS AND BACKGROUND

## Cost Cutting Efforts Since 2009

- Elimination of Sign & Markings FTE
  - \$50K savings/ impact on efficiency
- Elimination of a temporary asphalt crew
  - \$95K savings/ unable to proactively address pavement condition
- Deferred equipment purchases (purchasing used equipment instead of new)
  - Variable savings/ increased risk of equipment failure



# ROAD REPAIR AND STREET SAFETY INITIATIVE CONDITIONS AND BACKGROUND

- Reduce service levels for
  - Sweeping
    - \$30K savings/ 50% cut in residential service level
  - Snow Operations
    - Not able to haul snow from cul de sac
- Refurbishing of the Paint Striper
  - \$100K savings
- Utilizing the SAVE program for State contracts for purchasing equipment and materials (Motor graders, Thermo machine, sign & markings material)
  - \$500K savings on grader purchase



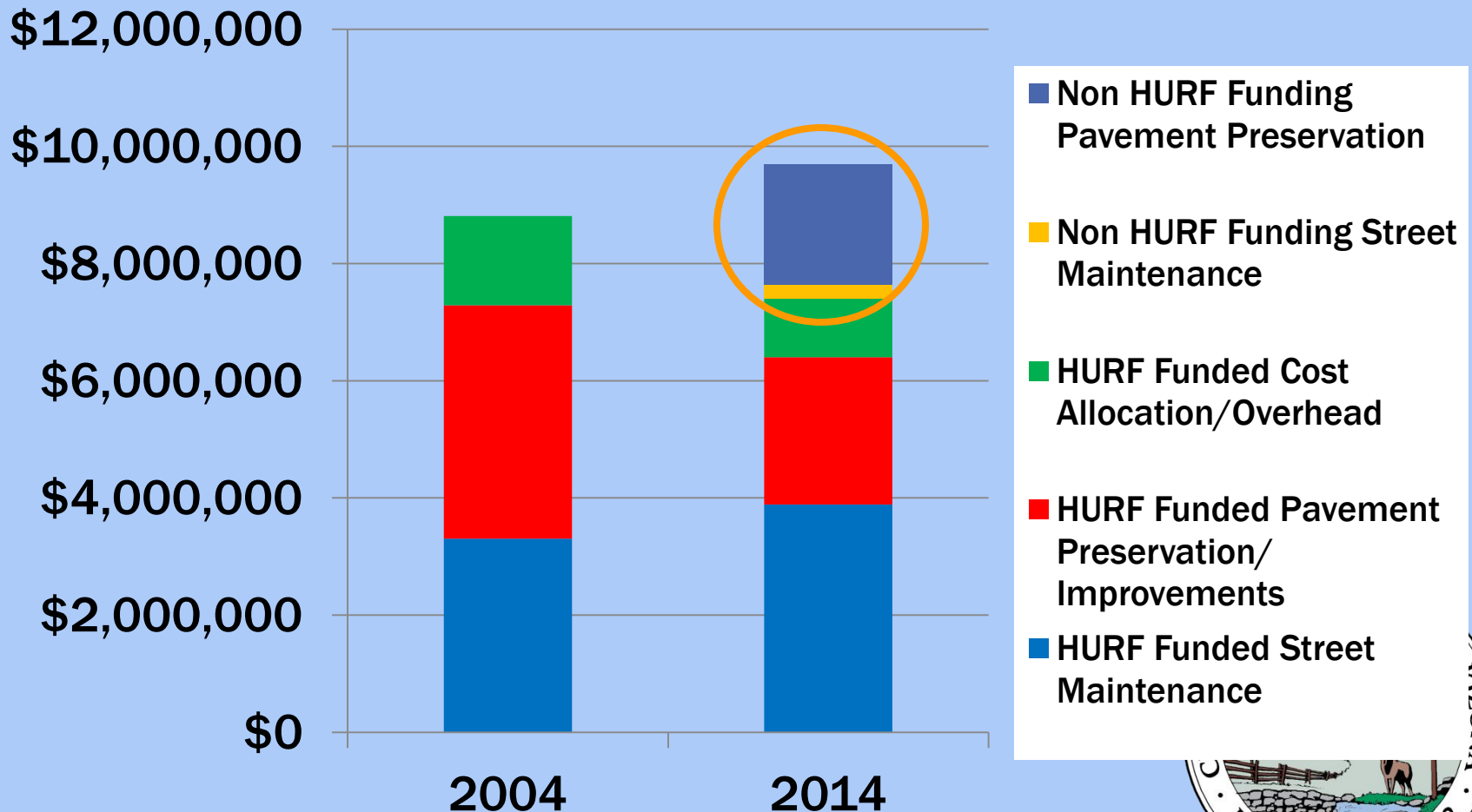
# ROAD REPAIR AND STREET SAFETY INITIATIVE CONDITIONS AND BACKGROUND

## Cost Cutting Efforts Since 2009

- Reducing fleet by trading in 3 pieces of equipment when purchasing 2 (2 motor graders and 1 dozer)
  - Reduced overall replacement value
- Reducing traffic signal replacement components purchases; purchasing used components (walk/don't walk modules)
  - 75% savings on equipment purchase
- Utilizing DOC crews to help with work load (cost effective)



# ROAD REPAIR AND STREET SAFETY INITIATIVE CONDITIONS AND BACKGROUND



	2004 HURF Funding	2014 HURF Funding	2014 Non HURF Funding
Admin	\$204,000	\$371,000	-
Sweeping	\$725,000	\$192,000	\$40,000
Snow Removal	\$627,000	\$557,000	\$197,000
Sign Signal & Marking	\$293,000	\$337,000	-
Street maintenance	\$849,000	\$1,418,000	-
Drainage	\$78,000	\$1,000	\$288,000
Training	\$2,000	\$2,000	-
Street Lights	\$325,000	\$382,000	-
Traffic Signal maintenance	\$202,000	\$343,000	-
<b>Street Maintenance Total</b>	<b>\$3,306,000</b>	<b>\$3,602,000</b>	<b>\$525,000</b>
<b>Street Maintenance per Lane Mile</b>	<b>\$6,300</b>	<b>\$5,500</b>	-
Pavement Preservation (overlay)	\$1,601,000	\$1,146,000	\$1,000,000
Pavement Preservation (1x)	\$0	\$1,250,000	\$200,000
Sunnyside Improvements	\$1,804,000	\$0	\$850,000
Minor Transportation Improvements	\$513,000	\$50,000	-
Reserve for Improvements	\$50,000	\$50,000	-
Sidewalk Replacement	\$15,000	\$15,000	-
ADA Sidewalk Compliance	\$155,000	\$0	-
<b>Pavement Preservation Total</b>	<b>\$3,983,000</b>	<b>\$2,511,000</b>	<b>\$2,050,000</b>
<b>Pavement Preservation per Lane Mile</b>	<b>\$7,600</b>	<b>\$3,800</b>	
<b>Cost Allocation/Overhead</b>	<b>\$1,525,000</b>	<b>\$999,000</b>	-
<b>Total Budget</b>	<b>\$8,813,000</b>	<b>\$7,113,000</b>	<b>\$2,575,000</b>
<b>Total Budget per Lane Mile</b>	<b>\$16,800</b>	<b>\$11,000</b>	20

# ROAD REPAIR AND STREET SAFETY INITIATIVE CONDITIONS AND BACKGROUND

- Council Goal: “Repair, Replace and Maintain Infrastructure” (Streets and Utilities)
- FY2014 Budget Highlights:
  - Increased on-going pavement preservation in FY14 from \$1.2M to \$2.2M.
  - Increased one time pavement preservation in FY14 from \$0 to \$1M.
- Council Budget Priority for next year
- City Legislative Priority to address funding sweeps



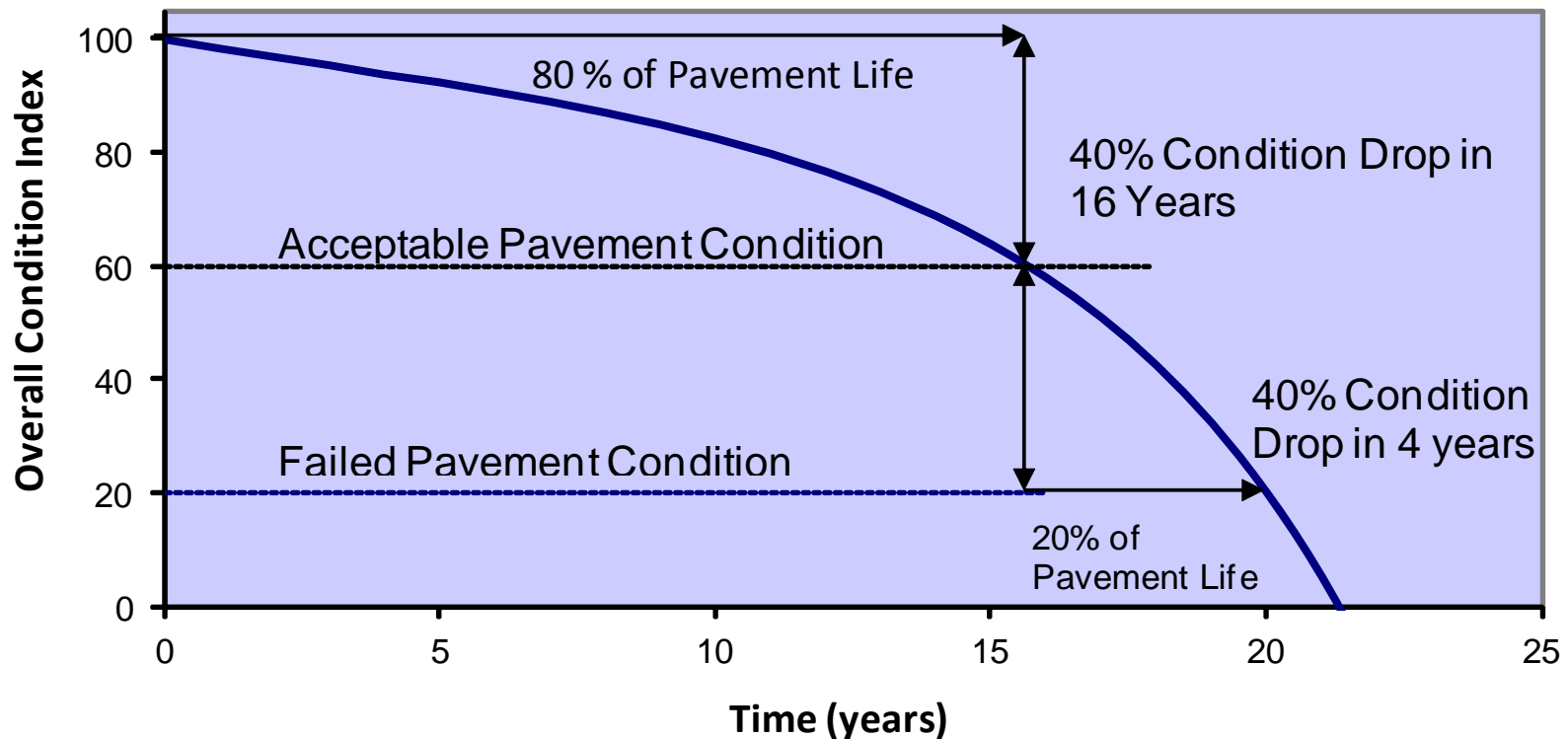
# ROAD REPAIR AND STREET SAFETY INITIATIVE



# ROAD REPAIR AND STREET SAFETY INITIATIVE

## INTRO TO PAVEMENT PRESERVATION

**Pavement Deterioration Curve**

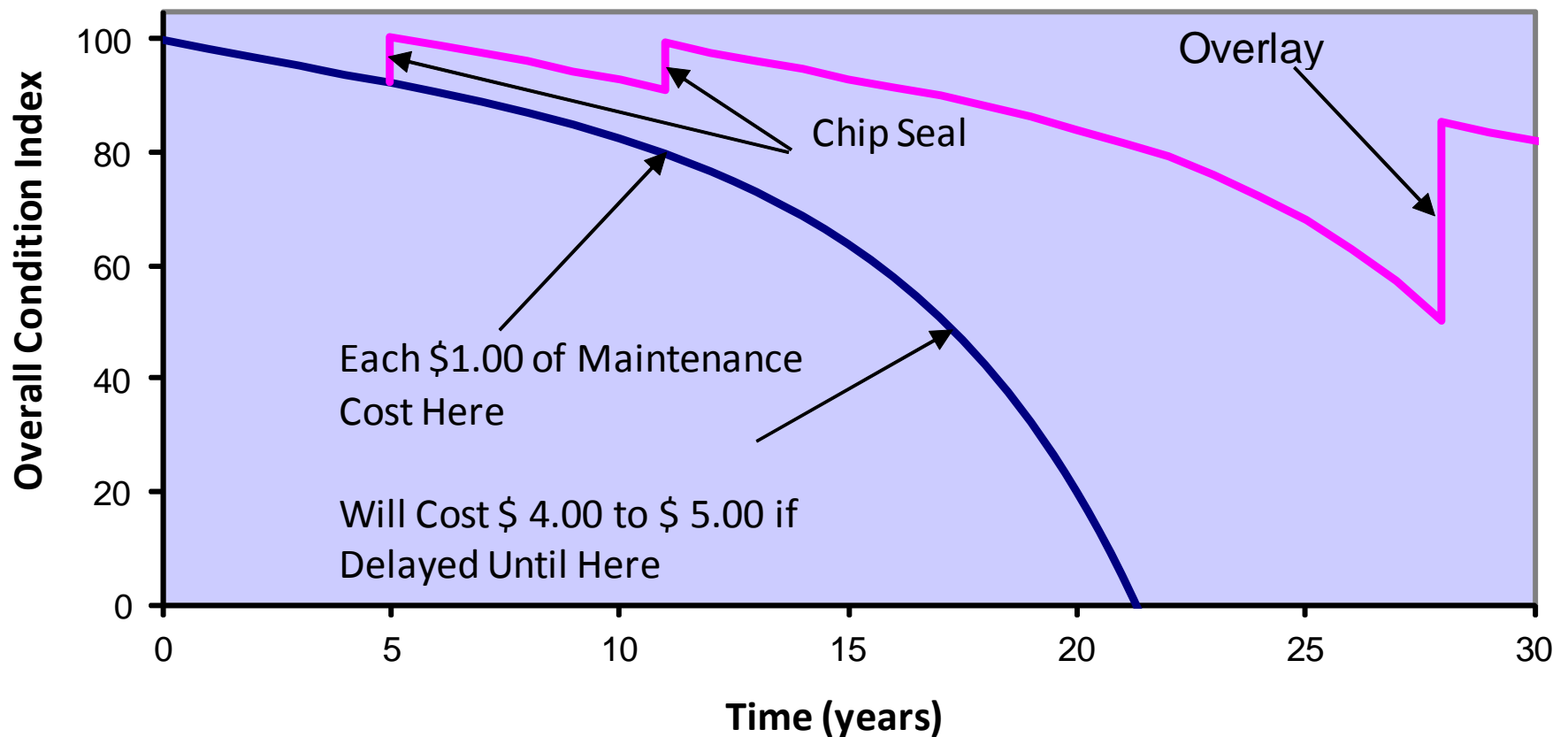




# ROAD REPAIR AND STREET SAFETY INITIATIVE

## INTRO TO PAVEMENT PRESERVATION

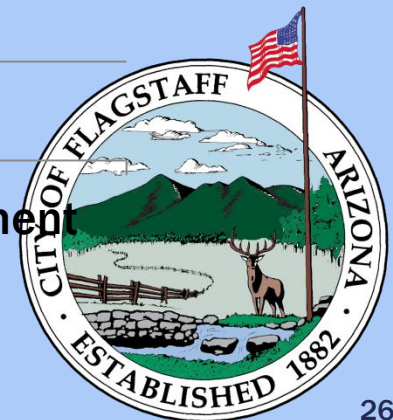
### Pavement Deterioration Curve



		Projected Average 5 Year Condition Rating	Projected Average 10 Year Condition Rating	Current Cost to Upgrade to Target Condition ⁽¹⁾	5 Year Cost to Upgrade to Target Condition ⁽¹⁾	10 Year Cost to Upgrade to Target Condition ⁽¹⁾
ASSET (Current)	Target Condition Rating					
Streets - OCI < 40	70 +	18.5	-6.5	\$11,933,850	\$33,370,908	\$48,827,750
Streets - OCI = 40-50	70 +	31.9	11.9	\$5,805,069	\$4,093,902	\$1,598,824
Streets - OCI = 50-60	70 +	43.7	27.7	\$5,838,716	\$1,799,721	\$3,253,527
Streets - OCI = 60-70	70 +	56.5	44.5	\$13,571,191	\$17,639,849	\$14,348,274
Streets - OCI = 70-80	70 +	67.1	57.1	\$3,140,429	\$3,088,543	\$3,847,203
Streets - OCI = 80-90	80 +	77.7	69.7	\$3,550,821	\$3,777,514	\$1,417,748
Streets - OCI = 90-100	90 +	87.2	80.2	\$3,135,963	\$1,501,135	\$2,066,667
TOTALS				\$46,976,038	\$65,271,573	\$75,359,994

# ROAD REPAIR AND STREET SAFETY INITIATIVE

## INTRO TO PAVEMENT PRESERVATION



# ROAD REPAIR AND STREET SAFETY INITIATIVE

## ECONOMIC IMPACT OF ROADS AND PAVEMENT PRESERVATION



# ROAD REPAIR AND STREET SAFETY INITIATIVE

## ECONOMIC IMPACT OF ROADS

### Jobs during construction and O&M

- Every 1 billion dollars in expenditure supports 13,000 to 30,000 job years. This includes multiplier effects
- * \$50,000,000 in short-term preservation projects would yield **650-1500** job years
- * \$2,500,000 annual increase in operations yields **33-75 jobs** for length of expenditure



# ROAD REPAIR AND STREET SAFETY INITIATIVE

## ECONOMIC IMPACT OF ROADS

### Access for employees and customers and access to markets for goods and services

- Pavement preservation is not likely to improve access for customer and employees except in extreme conditions. Bicyclists and pedestrians will be affected more.
- Local pavement preservation efforts (meaning non-ADOT roads) will have nominal impacts on access to larger markets as relatively short distances are traveled on city streets.



# ROAD REPAIR AND STREET SAFETY INITIATIVE

## ECONOMIC IMPACT OF ROADS

### Reduced delay (congestion) and secondary impacts (emissions)

- Time is valued at \$16.34/hour in 2010 dollars multiplied by 1.5 people per car
- * **\$9.9 million** in delay costs per year assuming a 2 mile per hour decrease in speed

### Impact to private automobiles

- AAA reports \$377 in additional maintenance costs per year for the average driver due to rough roads
- * **\$14.5 million** per year in Flagstaff assuming 1.5 average drivers per household

### Avoiding significant future costs in road repair

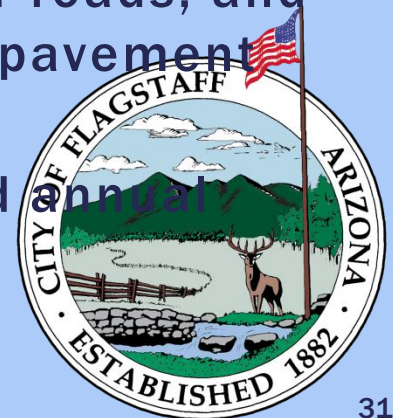


# ROAD REPAIR AND STREET SAFETY INITIATIVE

## ECONOMIC IMPACT OF ROADS

### Improved safety / Reduced liability

- Fatalities, injuries and property damage crashes occur in Arizona at the respective rates of 1.4, 323 and 517 per 100 million vehicle miles of travel.
- The Flagstaff region travels approximately 600 million VMT annually.
- * **\$7.5 million** in cost avoidance annually due to crash reduction for better roads considering costs per crash type, distribution of VMT by road type, excluding major roads, and estimated reduction in crashes due to improved pavement conditions
- * **\$3.0 million** in cost avoidance due to improved striping and marking





# ROAD REPAIR AND STREET SAFETY INITIATIVE

## TAXES AND FINANCING TOOLS



# ROAD REPAIR AND STREET SAFETY INITIATIVE

## TAXES AND FINANCING TOOLS

- Revenue Sources
- Sales Tax
  - 1/10 of 1% generates \$1.6M (10 cents per \$100)
- Primary Property Tax
  - 2% generates \$100,000
- HURF (State Gas Tax)
  - 1 cent increase = \$120,000, no local control
  - Eliminate current sweeps = \$700,000+ annual
- Water/Sewer Rates
  - Water - 7% rate increase = \$1M additional revenue
  - Sewer - 12% rate increase = \$1M additional revenue



# ROAD REPAIR AND STREET SAFETY INITIATIVE TAXES AND FINANCING TOOLS

- Current Transportation Sales Tax is 0.721%
  - 0.291% (\$4.6M) - NAIPTA
  - 0.16% (\$2.5M) - Debt Service (4th Street Overpass)
  - 0.186% (\$2.9M) – Traffic Flow and Safety/ RTP
  - 0.08% (\$1.2M) - Safe Schools
  - Set to expire 2020



# ROAD REPAIR AND STREET SAFETY INITIATIVE

## CITIZEN SURVEY



# 2013 CITIZEN SURVEY QUESTION #14 CONT.

Please rate the quality of each of the following services provided in Flagstaff:

## ■ Street Maintenance

- Excellent (8%)
- Good (25%)
- Fair (33%)
- Poor (34%)



# 2013 CITIZEN SURVEY QUESTION #18

To what extent do you support or oppose each of the following sales tax increases, which would be dedicated to street improvements in Flagstaff?

- A small increase in the sales tax for a longer period of time (20-25 years)
  - Strongly Support (20%)
  - Somewhat Support (42%)
  - Somewhat Oppose (11%)
  - Strongly Oppose (28%)



# 2013 CITIZEN SURVEY QUESTION #18

To what extent do you support or oppose each of the following sales tax increases, which would be dedicated to street improvements in Flagstaff?

- A larger increase in the sales tax for a shorter period of time (3-5 years)
  - Strongly Support (9%)
  - Somewhat Support (19%)
  - Somewhat Oppose (27%)
  - Strongly Oppose (45%)



# ROAD REPAIR AND STREET SAFETY INITIATIVE

## CITIZEN REVIEW COMMITTEE RECOMMENDATION





# ROAD REPAIR AND STREET SAFETY INITIATIVE CITIZEN REVIEW COMMITTEE

- Council directed City Manager to develop a funding proposal to address backlog of repairs to City's transportation infrastructure
- Key stakeholders and community leaders
- City Manager needs help on how best to fund these repairs



# ROAD REPAIR AND STREET SAFETY INITIATIVE CITIZEN REVIEW COMMITTEE

## Citizen Review Committee Objective:

- To Review financial and performance history, understand trends and issues, provide recommendation to City Manager on how best to fund improvements to Flagstaff's transportation infrastructure including road repairs and safety enhancements.



# ROAD REPAIR AND STREET SAFETY INITIATIVE CITIZEN REVIEW COMMITTEE

## Committee Members Represent:

- Auto dealership
- NAU
- ECONA
- Downtown Business
- Restaurant/Lodging
- Engineering
- Chamber
- Flagstaff Biking
- Southside Neighborhood
- Realtors
- FMC
- NAIPTA
- Transportation Commission
- Flagstaff Arts Council
- Friends of the Rio
- City Commissions
- Community Leaders
- Gore
- Construction



# ROAD REPAIR AND STREET SAFETY INITIATIVE CITIZEN REVIEW COMMITTEE

## Committee Members:

- Scott Baugh
- Rich Bowen
- Kiwon Choi
- Guillermo Cortes
- Eck Doerry
- Deborah Harris
- Jacquie Kellog
- Aaron Kotzin
- Shari Miller
- Kevin Parkes
- Minesh Patel
- Steve Peru
- Eve Ross
- John Tannous
- Jack Welch
- Nat White
- Don Walters



# ROAD REPAIR AND STREET SAFETY INITIATIVE CITIZEN REVIEW COMMITTEE

- Should the City ask voters to fund road repairs with a sales tax?
- What should the amount of the tax proposal be?
- Should the tax fund road repairs and ongoing road preservation?
- Should the new tax fund new roads or traffic congestion projects?
- What should the scope of the tax fund?
  - Ongoing repairs?
  - Utilities – Water, Sewer and Stormwater
  - Bicycle Lanes
  - Sidewalks – Missing Sidewalks?



# ROAD REPAIR AND STREET SAFETY INITIATIVE CITIZEN REVIEW COMMITTEE

## City Manager's Guard Rails Provided to Citizen Committee:

1. We should repair and maintain existing investments before we ask voters to pay for new investments.
2. Annual pavement preservation funding of \$2.5M is essential beginning in year 5 to ensure we maintain the improved condition, as is contingency funding.
3. Citizens overwhelmingly support a smaller road repair tax over a longer period of time.
4. The solution has to take into account connectivity of improvements - if you are going to fix it, fix it right!
5. This is a large scale problem that requires a large scale solution.
6. We are okay recommending multiple options.



Option	Cost	New Sales Tax Rate		CRC PROPOSAL	NOTES:
		20 Years NO BONDS	20 Year BONDS	Sales Tax	
<b>Pavement Preservation - ANNUAL (\$2.5M/ Year based on ALL Streets)</b>	\$50,000,000	0.156%	N/A	0.156%	
<b>DELAYED</b> Pavement Preservation - ANNUAL (based on ALL Streets)	\$37,500,000	0.117%	0.172%		
ALL STREETS (inc. curb, gutter, ADA, sidewalk, existing bike lanes OCI <70)	\$47,000,000	0.147%	0.216%		
Streets OCI <70 (inc. curb, gutter, ADA, sidewalk, existing bike lanes OCI <70)	\$38,000,000	0.119%	0.175%	0.175%	
ALL WATER, SEWER, STORMWATER	\$38,900,000	0.122%	0.179%		
Utilities <50 (Water = \$7.3M; Sewer = \$5.7M; Storm = \$7.1M)	\$18,100,000	0.057%	0.083%	0.083%	
Repair Existing Sidewalks OCI >70	\$9,800,000	0.031%	0.045%		2020 Renewal
Missing Sidewalks OCI <40	\$300,000	0.001%	0.001%		Property Tax
Missing Sidewalks OCI <70	\$4,100,000	0.013%	0.019%		Property Tax
Missing Sidewalks OCI >70	\$4,200,000	0.013%	0.019%		
Bicycle Improvements	\$750,000	0.002%	0.003%	0.003%	
Bus Pullouts	\$2,500,000	0.008%	0.011%	0.011%	
FUTS	\$3,700,000	0.012%	0.017%	0.017%	
Pedestrian Crossings	\$400,000	0.001%	0.002%	0.002%	
New Lone Tree Bridge (Butler to Rt. 66)	\$50,000,000				2020 Renewal
Milton Road Congestion (NOTE: City Share based on ADOT \$\$)	\$13,000,000	0.041%	0.060%	0.060%	
Replace 4th Street over I40	\$10,000,000	0.031%	0.046%		2020 Renewal
<b>Total</b>	<b>\$230,450,000</b>			<b>0.508%</b>	
				<b>\$126,450,000</b>	

# ROAD REPAIR AND STREET SAFETY INITIATIVE

## TRANSPORTATION COMMISSION RECOMMENDATION





# ROAD REPAIR AND STREET SAFETY INITIATIVE TRANSPORTATION COMMISSION

- Critical issue
- Emphasis on existing roads
  - Planning is needed for bigger and new projects but this tax is not the right time to do so
- Consideration of County proposal
- Prioritize roads
- Consideration of voter tax capacity



# ROAD REPAIR AND STREET SAFETY INITIATIVE TRANSPORTATION COMMISSION

The City of Flagstaff Transportation Commission recognizes that transportation infrastructure funding is declining on a federal, state and local level and that existing funding solutions are inadequate to solve the problem. We recognize that the work of City staff and the Citizen Review Committee have adequately explored the issues and we support sending a Road Repair and Street Safety referendum to the voters for consideration in November 2014.



# ROAD REPAIR AND STREET SAFETY INITIATIVE

## COUNCIL DISCUSSION

